

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1972

SPONSOR: Education Committee and Senator Peaden

SUBJECT: Charter Schools

DATE: April 20, 2001 REVISED: 4/25/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>McKee</u>	<u>Hickam</u>	<u>AED</u>	<u>Fav/8 amendments</u>
3.	_____	_____	<u>AP</u>	<u>Withdrawn: Fav/8 am.</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends s. 228.056, F.S., to revise provisions relating to charter schools. The bill removes the caps on the number of charter schools a district may have. The bill revises procedures for charter school appeals and provides definitions and restrictions for a school district's administrative fee.

The bill amends s. 228.0561, F.S., to revise the procedure of distribution of charter school capital outlay funds and to authorize new uses for non-bonded funds.

The bill amends s. 228.058, F.S., to require public schools in a charter district to vote on the question of becoming a charter school.

The bill amends s. 232.425, F. S., to authorize charter school students to participate in extracurricular activities at the non-charter public school to which the student otherwise would be assigned.

The bill takes effect upon becoming a law.

This bill amends ss. 228.056 and 228.05651, Florida Statutes.

II. Present Situation:

Charter schools are part of the state's program of public education under section 228.056, F. S. The law specifies that the purpose of charter schools must be to improve student learning; increase learning opportunities for all students, encourage the use of different and innovative learning methods; increase learning opportunity choices for students; establish a new form of

accountability for schools; require the measurement of learning outcomes and create innovative measurement tools; establish the school as the unit for improvement; and create new professional opportunities for teachers.

Subsection 228.056(1), Florida Statutes, specifies that a charter school may be formed by the creation of a new school or conversion of an existing public school to a charter school. When an existing public school, including a school-within-a-school, wants to convert to a charter school, subsection 228.056(3), Florida Statutes, requires the school board or school principal, teachers, parents, and/or the school advisory council to submit an application requesting permission to convert the existing school to a charter school.

Subsection 228.056(4), Florida Statutes, authorizes a school board to sponsor a charter school in the district over which the school board has jurisdiction. Specifically, a school board must receive and review all applications for a charter school. Within 60 days after receiving a charter school application, a school board must approve or deny a charter school application through a majority vote.

If a school board denies a charter school application, it must express in writing the specific reasons for which the charter school application was denied within 10 calendar days after rendering its decision. According to subsection 228.056(4)(b), Florida Statutes, a charter school applicant may appeal a school board's denial of a charter school application or its failure to render a decision on a charter school application to the State Board of Education within 30 calendar days after the school board's denial of the application or failure to render a decision on the application. Within 60 calendar days after a charter school applicant files an appeal, the State Board of Education must accept or reject the school board's initial decision through a majority vote. Subsequently, the State Board of Education must remand the charter school application to the school board with its written recommendation specifying whether or not the school board should approve or deny the charter school application.

Subsection 228.056(4)(c), Florida Statutes, requires the school board to act upon the recommendation of the State Board of Education within 30 calendar days after receiving the recommendation. The school board may fail to act in accordance with the recommendation of the State Board of Education if it determines that the recommendation is contrary to law or contrary to the best interest of the students or the community. The school board's action on the State Board of Education's recommendation is a final action subject to judicial review.

Subsection 228.056(4)(f), Florida Statutes, specifies that the terms and conditions for the operation of a charter school must be set forth by the sponsor (school board) and the charter school applicant in a written contractual agreement (charter). The law requires the sponsor and the charter school applicant to mutually agree to the provisions of the charter within six months. With the exception of disputes relating to charter school application denials, the Department of Education must provide mediation services for any disputes relating to the charter school statute. If the Commissioner of Education determines that a dispute cannot be resolved through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings.

Subsection 228.056(5), Florida Statutes, limits the number of newly created charter schools that can exist within a school district, according to the number of students in the school district. A school district that has at least 100,000 students can establish a maximum of 28 charter schools; a school district that has 50,000-99,999 students can establish a maximum of 20 charter schools; and a school district that has less than 50,000 students can establish a maximum of 12 charter schools. An existing public school that converts to a charter school must not be counted toward the limit. A charter school or a district school board can seek approval from the State Board of Education to increase the limit on the number of charter schools that can exist within a school district.

According to subsection 228.056(6)(b), Florida Statutes, a charter school must enroll an eligible student that submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such a situation, applicants are admitted through a random selection process.

A charter school is only authorized to limit the enrollment process in order to target specific student populations. Such populations include students within specific age groups or grade levels; students considered to be at risk of dropping out of school or academic failure; students who wish to enroll in a charter school-in-the-workplace; and students residing within a reasonable distance of the charter school.

Subsection 228.056(8)(i), Florida Statutes, requires charter schools to maintain all financial records that constitute their accounting system in accordance with the accounts and codes prescribed in the most recent issue of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools." Charter schools are required to provide annual financial information and program cost information in the state required format to the school district so that the school district can submit the information to the state.

Charter schools that are operated by a municipality or a not-for-profit organization may use the accounting system of the municipality or the not-for-profit organization but must reformat the information contained in the accounting system for reporting purposes.

Under section 228.056(10), F. S., the sponsor of a charter school may refuse to renew the charter at the end of the charter's term for certain reasons. Such reasons include failure to meet the requirements for student performance stated in the charter; failure to meet generally accepted fiscal management standards; violation of the law; or any other demonstrated good cause.

Subsection 228.056(10)(c), Florida Statutes, requires the sponsor of a charter school to notify in writing the governing body of the charter school whether the charter will be renewed or terminated. This written notification must be submitted to the charter school at least 90 days before the actual renewal or termination of the charter. The written notification must also detail the specific reasons for not renewing or terminating the charter and must inform the charter school that the governing body may, within 14 calendar days after receiving the notice, request an informal hearing before the sponsor. If the governing body of the charter school requests an informal hearing, the sponsor must conduct the hearing within 30 calendar days after receiving the request. If the sponsor decides to terminate or refuses to renew the charter, the charter school may appeal the decision, within 14 calendar days, to the State Board of Education.

Within 60 calendar days after a charter school files an appeal, the State Board of Education must accept or reject the school board's initial decision through a majority vote. Subsequently, the State Board of Education must provide the school board with its written recommendation specifying whether or not the school board should renew or terminate the charter. The school board is required to act upon the recommendation of the State Board of Education within 30 calendar days after receiving the recommendation. The school board may fail to act in accordance with the recommendation of the State Board of Education if it determines that the recommendation is contrary to law or contrary to the best interest of the students or the community. The school board's action on the State Board of Education's recommendation is a final action subject to judicial review.

Subsection 228.056(10)(d), Florida Statutes, authorizes a sponsor to terminate a charter immediately if it determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. Under such a scenario, current law does not provide a charter school with the opportunity to request an informal hearing before the sponsor or appeal the decision to the State Board of Education. The provisions of subsection 228.056(10)(f), F. S., specify that the governing body of a charter school is responsible for all of the school's debts if the school's charter is terminated or not renewed.

According to subsection 228.056(11), Florida Statutes, a charter school must operate in accordance with its charter and must be exempt from all of the statutes of the Florida School Code, except those statutes specifically applying to charter schools; those statutes pertaining to the provision of services to students with disabilities; those statutes pertaining to civil rights; and those statutes pertaining to student health, safety, and welfare. The law authorizes the sponsor, upon the request of a charter school, to apply to the Commissioner of Education for a waiver of the provisions of chapters 230-239, F. S., that are applicable to charter schools. However, the provisions of chapters 236 and 237, F. S., governing public school finance & tax and public school financial accounts & expenditures, are not eligible for a waiver if the waiver affects public school funding allocations or creates an inequity in public school funding.

Subsection 228.056(12)(f), Florida Statutes, requires charter school teachers to be certified. The subsection authorizes a charter school governing board to employ skilled selected non-certified personnel to provide instructional services or to assist instructional personnel as education paraprofessionals in the same manner as provided in chapter 231, F. S., and as provided by State Board of Education rule for charter school governing boards. The law prohibits a charter school from employing an individual to provide instructional services or to serve as an education paraprofessional if the individual's teaching certificate or license is suspended or revoked.

According to subsection 228.056(13)(e), Florida Statutes, a school district must provide certain administrative and educational services to charter schools. The services must include contract management services, FTE (full-time equivalent) data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services. Any administrative fee charged by the school district for the provision of services must be limited to five percent of the available funds "defined in paragraph (b)."

Subsection 228.056(13)(b), Florida Statutes, delineates the basis for funding students enrolled in a charter school. Specifically, funding for students enrolled in a charter school must be the sum of the school district's operating funds from the Florida Education Finance Program, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted FTE students in the school district; multiplied by the weighted FTE students for the charter school. Charter schools are entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program.

Subsection 228.056(22), Florida Statutes, establishes charter schools-in-the-workplace in order to increase business partnerships in education, reduce school and classroom overcrowding throughout the state, and offset the high costs associated with the construction of educational facilities. Charter schools-in-the-workplace may be established when a business partner provides the school facility to be used; enrolls students based upon a random lottery that involves all of the children of the employees of the business; and enrolls students according to the racial/ethnic balance reflective of the community or other public schools in the same school district.

Section 228.0561, F.S., governs capital outlay funding for charter schools.

Section 228.056, F.S., creates a pilot program for charter school districts.

Section 232.425, F.S., regulates student participation in extracurricular activities.

III. Effect of Proposed Changes:

The bill prohibits a public school from using the term "charter" in its name or title unless the school is currently operating under a charter that has been granted pursuant to the charter school statute (section 228.056, F. S.). This bill requires an existing public school to be in operation for at least two years before it submits an application to convert to a charter school. When a school board denies a public school's application to convert to a charter school, the board must provide the school the exact reasons for its denial within 30 days of the denial. Public Education Capital Outlay (PECO) funds for maintenance must remain with the converted charter school.

The bill expands the purpose of charter schools. The additional purposes of charter schools are: to provide rigorous competition within the public school district in order to stimulate continual improvements in all public schools; to provide additional academic choices for parents and students; and to expand the capacity of the public school system.

The bill prohibits a sponsor from charging a charter school applicant a fee related to the processing or consideration of the charter school application. Additionally, the sponsor is prohibited from considering or approving a charter school application solely because an applicant promises to provide the sponsor with any kind of future payment.

The bill permits a charter school applicant to appeal a school board's denial of a charter school application to the State Board of Education within 30 calendar days after receiving the school board's specific reasons for the denial of the application, rather than after the school board's denial of the application.

Once the State Board of Education remands a charter school application to the school board with its written recommendation specifying whether or not the school board should approve or deny the charter school application, this bill requires the school board to act upon the decision, rather than the recommendation, of the State Board of Education and no longer permits a school board to fail to act in accordance with the recommendation of the State Board of Education. Consequently, the State Board of Education's decision on an appeal will be final.

The bill clarifies that the Department of Education must provide mediation services for any disputes relating to the charter school statute (section 228.056, Florida Statutes) that arise after the approval of a charter school application as well as any dispute relating to the approved charter.

The bill removes the limits on the number of newly created charter schools that can exist within a school district. Removing the limits on the number of newly created charter schools that can exist within a school district may provide some relief to school districts that have, or almost have the maximum number of charter schools permitted by law.

The bill directs the governing board of a charter school to annually determine the capacity of the charter school. A charter school must commence with the beginning of the public school calendar. Charter schools may form cooperative organizations to operate schools.

This bill authorizes any charter school to employ generally accepted accounting principles that are employed by not-for-profit organizations. However, the bill requires the charter schools to reformat the information for reporting purposes.

The bill authorizes the governing body of a charter school, whose charter has been terminated immediately because good cause has been shown or the health, safety, or welfare of the students has been threatened, to appeal the decision to the State Board of Education within 14 days after receiving the sponsor's decision to terminate the charter. This bill makes a charter school, rather than the governing body of a charter school, responsible for all of the school's debts if the school is terminated or not renewed. An amendment clarifies that unencumbered public funds, rather than simply unencumbered funds, revert to the school district when a charter is terminated.

The bill authorizes the governing board of a charter school, rather than the sponsor of a charter school, to apply to the Commissioner of Education for a waiver of the provisions of chapters 230-239, F. S., that are applicable to charter schools. Upon receiving the waiver request, the commissioner must provide a copy of the request to the sponsor. The bill exempts the charter school from the sponsor's policies.

The bill authorizes a charter school governing board to employ skilled selected non-certified personnel to provide instructional services or to assist instructional personnel as education paraprofessionals in the same manner as defined in chapter 231, F. S., or policies pursuant to State Board of Education rule for charter school governing boards. The bill also authorizes the governing board to approve the provision of instructional services by certified teachers that are teaching out of their field. The prohibition against employing a teacher whose certificate was

revoked in another jurisdiction is amended to say the charter school may not knowingly employ a teacher whose certificate was revoked.

New requirements for the charter are added. A school district must provide academic performance data for each of their students coming from a public school as well as data on rates of progress for comparable students in other public schools. A description of the internal audit procedures and a plan for identifying risk and reducing the losses from threats to safety and security for the charter school must be included in the charter. The charter must address appropriate uses of technology. The charter must describe strategies the school will use to recruit and retain teachers.

While any administrative fee charged by the school district for the provision of services to a charter school must be limited to five percent of the charter school's available operating and categorical funds, this bill clarifies that the school board may not withhold capital outlay funds, federal and state grants, or any other funds, unless explicitly provided by law.

The current provisions for charter schools-in-the-workplace are amended to permit a charter school-in-a-development and a charter school-in-a-municipality. In either situation, any portion of the land and facilities used for the charter school would be exempt from ad valorem taxes.

The bill amends s. 228.0561, F.S., governing charter school capital outlay funding to require the DOE to distribute capital outlay funds to charter schools on a monthly basis beginning in the first quarter of the fiscal year.

The bill amends s. 228.058, F.S., to require public schools in a charter district to vote on the question of becoming a charter school.

The bill amends s. 232.425, F. S., to authorize charter school students to participate in extracurricular activities at the non-charter public school to which the student otherwise would be assigned.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

By removing the limits on the number of charter schools that can exist within a school district, this bill may have a positive fiscal impact on the private sector because corporate developers may be provided with an opportunity to construct additional charter school facilities.

C. Government Sector Impact:

In anticipation of an increase in the number of charter schools statewide, the Department of Education estimates that an additional staff member is needed at an average annual cost of \$66,119. DOE should be able to absorb this cost within their existing resources.

The anticipated increase in the number of charter schools will increase the demand for an increase in funds provided for charter school facilities. It may also increase administrative costs for school districts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:**# 1 by the Appropriations Subcommittee on Education**

This amendment lets charter schools take advantage of federal tax benefits currently afforded non-profit schools when industrial development authorities issue federal tax exempt bonds for certain purposes, including educational facilities.

2 by the Appropriations Subcommittee on Education

This amendment encourages school districts and charter schools to cooperate on determining the location of charter schools as a means of expanding the capacity of the public school system.

3 by the Appropriations Subcommittee on Education

This amendment deletes the requirement that the school board must act in accordance with the decision of the State Board of Education in charter school application appeals and restores the right of a school board to fail to act in accordance with the state board's recommendations for good cause.

4 by the Appropriations Subcommittee on Education

This technical amendment clarifies that the sponsor approves charter school attendance policies.

5 by the Appropriations Subcommittee on Education

This amendment requires the governing board of a charter school to annually adopt and maintain an operating budget.

6 by the Appropriations Subcommittee on Education

This amendment gives school districts first right of refusal in determining whether to assume real property of a charter school when the school's charter is not renewed or is terminated.

7 by the Appropriations Subcommittee on Education

This amendment deletes from the bill the authorization for a sponsor to grant a charter for a charter school-in-a-development.

8 by the Appropriations Subcommittee on Education

This amendment deletes the requirement that every school in a charter district vote on the question of whether or not to become a charter school.