

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.)

Prepared By: The Professional Staff of the Committee on Education Pre-K - 12

BILL: SB 808
 INTRODUCER: Senator Brandes
 SUBJECT: Charter Schools
 DATE: February 1, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	AED	_____
4.	_____	_____	AP	_____

I. Summary:

SB 808 authorizes municipal governing authorities to sponsor charter schools in the municipality over which the municipal governing authority has jurisdiction.

The bill also deletes the prohibitions on (consequently authorizes) a high performing charter school from:

- Establishing more than one charter school that will substantially replicate its educational program per year.
- Subsequently applying for additional charter schools that substantially replicate its education program unless each such charter school achieves high performing charter school status.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor, which is typically a school district.¹ Charter schools are exempt from many laws and regulations applicable to traditional public schools to encourage the use of innovative learning methods.² One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational

¹ Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

² Section 1002.33(2)(b)3, and (16), F.S.

opportunities within the state’s public school system.”³ The terms and conditions for the operation of the school are set forth in a performance contract or “charter.”⁴

Charter School Sponsors

Only district school boards or universities are authorized to sponsor charter schools.⁵ A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.⁶ A state university may grant a charter to a lab school, and shall be considered the school’s sponsor.⁷

Florida law tasks sponsors with authorizing new charter schools and providing continuing oversight of each charter school in the school district.⁸ The law establishes several processes designed to enable the sponsor to perform these roles, including:

- Authority to review and approve or deny charter school applications.⁹
- Authority to enforce the terms and conditions of the charter agreement.¹⁰
- Annual reporting of student achievement and financial information by each charter school to the sponsor.¹¹
- Sponsor monitoring of annual financial audits¹² and monthly financial statements submitted by charter schools in the school district.¹³
- Interventions for remedying unsatisfactory academic performance and financial instability.¹⁴
- Authority to close charter schools for academic or financial failure; poor management; violations of law; or child health, safety, and welfare violations.¹⁵

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.¹⁶

The law establishes an application process for establishing a new charter school.¹⁷ An applicant must submit a charter school application to the sponsor.¹⁸ The sponsor must review and approve or deny the application.¹⁹ The law requires sponsors and applicants to use a standard charter

³ Section 1002.33(2)(a)1, F.S.

⁴ Section 1002.33(6)(h), F.S.

⁵ Section 1002.33(5)(a), F.S.

⁶ *Id.*

⁷ *Id.* Such school shall be considered a charter lab school. *Id.*

⁸ Section 1002.33(6), F.S.

⁹ Section 1002.33(6), F.S.

¹⁰ Section 1002.33(6)(h) and (7), F.S.

¹¹ Section 1002.33(9)(k), F.S.

¹² Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., F.S.

¹³ Section 1002.33(9)(g), F.S.

¹⁴ Section 1002.33(9)(n), F.S.

¹⁵ Section 1002.33(8), F.S.

¹⁶ Section 1002.33(3)(a), F.S.

¹⁷ Section 1002.33(6)(a), F.S.

¹⁸ *Id.*

¹⁹ *Id.*

school application and application evaluation instrument.²⁰ The standard application is designed to enable the sponsor to evaluate the applicant's educational plan, organizational plan, financial viability, and business plan.²¹

Charter school sponsors evaluate a variety of factors when considering an application to open a charter school.²² The standard application requires the applicant to:²³

- List each proposed member of the charter school's governing board and his or her background and qualifications.
- Indicate whether the governing board will contract with a management company, summarize the company's history operating charter schools, and list other charter schools managed by the company along with student achievement and financial performance data of such schools.

Charter Agreement

Should the sponsor approve a charter school application, the sponsor and the governing board of the charter school will enter into a charter agreement.²⁴ The agreement must address major issues involving the operation of the charter school, including but not limited to the schools mission, the curriculum, instructional methods to be used, how educational goals and performance standards are met, requirements for graduation, the financial and administrative management of the school, asset and liability projections, the facilities to be used, teacher qualifications, and full disclosure of all relatives employed by the charter school.²⁵

The initial term of a charter is for 4 or 5 years.²⁶ However, in order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity are eligible for up to a 15-year charter, subject to approval by the sponsor.²⁷ These long-term charters remain subject to annual review, and may be terminated as specified in statute.²⁸

Charter School In A Municipality

A charter school in a municipality designation may be granted to a municipality that possesses a charter; enrolls students based upon a random lottery; and enrolls students according to racial/ethnic balances.²⁹

²⁰ *Id.*

²¹ *Id.*

²² Section 1002.33(6)(a), (7), (8), (9), F.S.

²³ *Id.*

²⁴ Section 1002.33(7), F.S.

²⁵ *Id.*

²⁶ Section 1002.33(7)(a)12., F.S.

²⁷ *Id.* Additional circumstances exist that may enable a 15 year term. *Id.*

²⁸ *Id.* Contract nonrenewal or termination provisions are in s. 1002.33(8), F.S.

²⁹ Section 1002.33(15), F.S.

When a municipality has submitted charter applications for the establishment of a charter school feeder pattern,³⁰ consisting of elementary, middle, and senior high schools, and each individual charter application is approved by the sponsor, the schools are then designated as one school.³¹

There are 15 self-reported charter schools-in-a-municipality in Florida.³²

High-Performing Charter Schools

A charter school is a high-performing charter school if it:³³

- Received at least two school grades of “A” and no school grade below “B,” during each of the previous three school years.
- Received an unqualified opinion on each annual financial audit in the most recent three fiscal years for which such audits are available.
- Did not receive a financial audit that revealed one or more of the financial emergency conditions in the most recent three fiscal years for which such audits are available. However, this requirement is deemed met for a charter school-in-the-workplace if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition.

A high-performing charter school is authorized to:³⁴

- Increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the current facility capacity.
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established its contract.
- Submit a quarterly, rather than a monthly, financial statement to the sponsor.
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools’ governing board regardless of the renewal cycle.
- Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school.

A high performing charter school may not establish more than one charter school within the state in any year.³⁵ A subsequent application to establish a charter school may not be submitted unless each charter school established in this manner achieves high-performing charter school status.³⁶

³⁰ The term feeder pattern is not specifically defined in charter school statutes or rules. However, in the school grading purposes, a feeder pattern exists if at least 60 % of the students in school “A” are scheduled to be assigned to school “B.” See, s. 1008.34(3)(a)2., F.S.

³¹ Section 1002.33(15), F.S.

³² E-mail, Florida Department of Education, Office of K-12 School Choice (February 1, 2016).

³³ Section 1002.331(1), F.S.

³⁴ Section 1002.331(2), F.S.

³⁵ Section 1002.331(3), F.S.

³⁶ *Id.*

As of October 31, 2015, there are 167 high-performing charter schools in Florida.³⁷

III. Effect of Proposed Changes:

SB 808 authorizes municipal governing authorities to sponsor charter schools in the municipality over which the municipal governing authority has jurisdiction.

The bill also deletes the prohibitions on (consequently authorizes) a high performing charter school from:

- Establishing more than one charter school that will substantially replicate its educational program per year.
- Subsequently applying for additional charter schools that substantially replicate its education program unless each such charter school achieves high performing charter school status.

Municipal Governing Authority As A Charter School Sponsor

The bill authorizes municipal governing authorities to sponsor, without school board approval, charter schools in the municipality over which the municipal governing authority has jurisdiction.

In effect, the bill allows municipality to sponsor a charter school, in addition to current law, which allows municipalities to contract with a sponsor to operate charter schools (such as a charter school-in-the municipality).

High Performing Charter Schools

The bill removes prohibitions, thus authorizes a high performing charter school to:

- Establish more than one charter school that will substantially replicate its educational program per year.
- Subsequently apply for additional charter schools that substantially replicate its education program before each such charter school achieves high performing charter school status.

In effect, a high performing charter school will not be limited in the number of applications it may file to substantially replicate its education program.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁷ Florida Department of Education, *Florida's Charter Schools Fact Sheet*, available at http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter_Oct_2015_11-20-15.pdf.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

In 2006, the Legislature enacted s. 1002.335, F.S., which established the “Florida Schools of Excellence Commission” as an independent, state-level entity with the power to authorize charter schools throughout the State of Florida. Under the statute, district school boards could exercise exclusive authority to authorize charter schools only if the State Board of Education granted them such power within their district. The court found that the statute created a parallel system of free public education escaping the operation and control of local elected school boards. The statute was found facially unconstitutional on the grounds that it posed a total and fatal conflict with article IX, section 4 of the Florida Constitution. See, *Duval County School Board v. State Board of Education*, 998 So.2d 641 (Fla. 1st DCA, 2008).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Not determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.33, 1002.331.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
