

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

BILL: CS/SB 796

INTRODUCER: Senator Bean

SUBJECT: Charter Schools

DATE: April 18, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Androff	Graf	ED	Fav/CS
2.			AED	
3.			AP	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 796 creates the High-Impact Charter Management Organization (HICMO) designation, authorizes certain entities to apply for the designation, and defines related terms. Specifically, the bill:

- Establishes the process and criteria for the initial designation and renewal of the designation.
- Provides incentives for HICMO entities to operate in Florida.
- Requires the Florida Department of Education (DOE) to provide school districts with technical assistance to ensure that federal funds are allocated to charter schools using an appropriate methodology.
- Removes the requirement that a charter school must have satisfactory student achievement based on state accountability standards to receive charter school capital outlay funding.
- Directs the State Board of Education to adopt rules to administer the HICMO provisions.

The bill takes effect July 1, 2017.

II. Present Situation:

The Florida Legislature has enacted legislation to promote school choice and strengthen education accountability.

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor, called a charter.¹ A guiding principle of charter schools is to meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.²

Charter School Application Process

Florida law establishes an application process for establishing a new charter school.³ An applicant must submit a charter school application to the sponsor.⁴ The sponsor must review or deny the application.⁵ The law requires sponsors and applicants to use a standard charter school application and application evaluation instrument.⁶ The standard application is designed to enable the sponsor to evaluate the applicant's educational plan, organizational plan, financial viability, and business plan.⁷

In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application by May 1 with an application fee of \$500.⁸ Otherwise, a sponsor is prohibited from charging an applicant any fee for the processing or consideration of an application.⁹

Charter school sponsors evaluate a variety of factors when considering an application to open a charter school.¹⁰ The standard application requires the applicant to:¹¹

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

Charter School Accountability

Florida law establishes several requirements designed to hold charter schools accountable both financially and academically, including:¹²

- A detailed application and rigorous review and approval process.

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

² Section 1002.33(2)(a)1., F.S.

³ *Id.* at (6)(a).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Section 1002.33(6)(b), F.S. The deadline for applications is August 1, although a sponsor may receive applications later if it so chooses. *Id.*

⁹ *Id.*

¹⁰ *Id.* at (6)(a), (7), (8), (9).

¹¹ *Id.* at (6).

¹² Sections 1002.33(6), (7), (9), (16), (21), (23), (24), (26), and 1002.345, F.S.

- The execution and maintenance of charter agreements between the charter school and its sponsor.
- Annual reporting, annual financial audits, and sponsor monitoring of monthly financial statements.
- Participation in statewide assessments and Florida’s school grading system.
- Interventions for unsatisfactory academic performance and financial instability.
- Reporting of student performance information to parents and the public.
- Compliance with ethical standards for employees and governing board members.

Florida assigns each public school, including charter schools, a school grade in order to help parents and the public measure the performance of a school.¹³

Schools are graded using one of the following grades:¹⁴

- “A,” for schools making excellent progress – 62% or higher of total points.
- “B,” for schools making above average progress – 54% to 61% of total points.
- “C,” for schools making satisfactory progress – 41% to 53% of total points.
- “D,” for schools making less than satisfactory progress – 32% to 40% of total points.
- “F,” for schools failing to make adequate progress – 31% or less of total points.

In Florida, the lowest performing schools receive more comprehensive, state-provided intervention and support than schools that are closer to meeting state determined student achievement goals.¹⁵ A school district must select a turnaround option when a traditional public school earns a grade of “F”, two consecutive grades of “D”, or a single grade of “F” immediately followed by a grade of “D” in the most recent grade release.¹⁶ The first full school year after such grade is a planning year during which the school district must implement intervention and support strategies, select a school turnaround option, and submit a plan for implementing the turnaround option to the DOE for approval.¹⁷ If the school does not improve by at least one letter grade at the end of the planning year, the turnaround option must be implemented in the following school year.¹⁸ Florida law specifies the turnaround options that a school district may select.¹⁹

Charter School Capital Outlay

State funds are the primary source of funding for charter school capital outlay.²⁰ Eligibility, allocation methodology, and allowable uses are defined by state law.²¹

¹³ Florida Department of Education, *2016 Preliminary School Grades Overview*, available at <http://schoolgrades.fldoe.org/pdf/1516/SchoolGradesOverview16.pdf>.

¹⁴ Section 1008.34(2), F.S.; rule 6A-1.09981, F.A.C.

¹⁵ Section 1008.33(2)(b) and (4), F.S.; see rule 6A-2.09981(2)(h), F.A.C. School improvement requirements were originally established under the federal 2002 reauthorization of Every Student Succeeds Act, otherwise known as the No Child Left Behind Act of 2001. Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002).

¹⁶ Section 1008.33(4); rule 6A-1.099811(4)(b), F.A.C.

¹⁷ Section 1008.33(4); rule 6A-1.099811(4)(b), F.A.C.

¹⁸ Section 1008.33(4)(c)-(e); rule 6A-1099811(4)(c) and (5)(b), F.A.C.

¹⁹ Section 1008.33(4)(b).

²⁰ Section 1013.62, F.S.

²¹ *Id.*

Eligibility

To be eligible for charter school capital outlay funding, a charter school must:²²

- Have been in operation for 2 or more years,²³ be governed by a governing board established in the state for 3 or more years which operates both charter schools and conversion charter schools within the state, be an expanded feeder chain²⁴ of a charter school within the same school district that is currently receiving charter school capital outlay funds, have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools, or serve students in facilities that are provided by a business partner for a charter school-in-the-workplace.
- Have an annual audit that does not reveal any specified financial emergency conditions²⁵ for the most recent fiscal year for which such audits are available.
- Have satisfactory student achievement²⁶ based on state accountability standards applicable to the charter school.
- Have received final approval from its sponsor for operation during that fiscal year.
- Serve students in facilities that are not provided by the charter school's sponsor.

A charter school is not eligible for a funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee, or at no charge, or if it is directly or indirectly operated by the school district.²⁷

III. Effect of Proposed Changes:

CS/SB 796 creates the High-Impact Charter Management Organization (HICMO) designation, authorizes certain entities to apply for the designation, and defines related terms. Specifically, the bill:

- Establishes the process and criteria for the initial designation and renewal of the designation.
- Provides incentives for HICMO entities to operate in Florida.
- Requires the Florida Department of Education (DOE) to provide school districts with technical assistance to ensure that federal funds are allocated to charter schools using an appropriate methodology.
- Removes the requirement that a charter school must have satisfactory student achievement based on state accountability standards to receive charter school capital outlay funding.
- Directs the State Board of Education to adopt rules to administer the HICMO provisions.

²² Section 1013.62(1)(a), F.S.

²³ Chapter 2016-237, L.O.F., effective July 1, 2016, reduced the eligibility period from 3 years to 2 years.

²⁴ Rule 6A-2.0020, F.A.C., provides that a charter school may be considered part of an expanded feeder chain if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding.

²⁵ The financial emergency conditions are provided in s. 218.503(1), F.S.

²⁶ Rule 6A-2.0020, F.A.C., provides that the eligibility requirement for student achievement must be determined in accordance with the language in the charter contract and the charter school's current school improvement plan if the school has a current school improvement plan. A charter school receiving an "F" grade designation through the state accountability system, as defined in s. 1008.34, F.S., must not be eligible for capital outlay funding for the school year immediately following the designation. *Id.*

²⁷ Section 1013.62(1)(b), F.S.

High-Impact Charter Management Organization

The bill establishes a High-Impact Charter Management Organization (HICMO) designation, authorizes certain entities to apply for the designation, and defines related terms. The bill defines critical need area as an area designated as such by the Legislature or an area served by one or more public schools that are subject to turnaround options. Entity, for purposes of HICMO, is defined as a nonprofit organization with tax exempt status under the federal Internal Revenue Code, which is authorized by law to operate a public charter school.

Under the bill, an entity that successfully operates a system of charter schools which primarily serves educationally disadvantaged students who are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act, may apply to the State Board of Education (SBE) for HICMO status.

Application and Review Process

The bill authorizes the SBE to adopt rules prescribing the process and criteria for initial designation of an HICMO and renewal of the designation. The bill states that the initial designation criteria must include a review of the data from all schools currently and previously operated by the entity during the past 3 years and the comparison of student-level data to the data of similar students in other schools. The bill provides that the initial designation period may not exceed 5 years and the criteria for initial and renewal designation must include, but need not be limited to, the following:

- Student demographic and achievement data, including performance on statewide assessments and nationally norm-referenced assessments.
- Student attendance, promotion, retention, and graduation rates.
- Other student outcome data, such as college attendance rates and completion rates.
- Annual finance statements and audits.

The bill provides that if an entity seeks renewal of its HICMO status, the SBE must review the academic and financial performance for the charter schools established in critical need areas consistent with the initial designation criteria.

Incentives

The bill grants the following incentives to HICMO entities:

- Authorizes an HICMO to apply to a district school board to establish and operate charter schools in critical need areas.
- Allows the HICMO to be designated as a local educational agency for the purposes of receiving federal funds.
- Provides that an HICMO-operated charter school is eligible to receive charter school capital outlay immediately, rather than after 2 years of operation.
- Waives the administrative fee provided in law for HICMO charter schools if the entity maintains its HICMO status.
- Requires the Florida Department of Education (DOE) to give priority to new charter schools operated by HICMO in a critical need area in the Florida Public Charter School Grant Program competitions.

- Adds HICMO-operated charter schools to an exception authorized in current law that allows a charter school that earns two consecutive grades of “F” to continue to operate in Florida if the school serves a specified student population and the school earns at least a grade of “D” in its third year of operation.²⁸

The establishment of the HICMO designation may result in the creation of additional charter schools to serve students in critical need areas. The number of charter schools that may open in critical need areas is not known.

Charter School Capital Outlay

The bill removes the requirement that a charter school must have satisfactory student achievement based on state accountability standards to receive charter school capital outlay funding. This may increase the number of charter schools that are eligible for and receive charter school capital outlay funds. In 2016-2017, 557 of the charter schools that applied to receive capital outlay funds were approved while 38 were denied for a failure to meet eligibility requirements and 15 of those were denied because of such schools’ failure to meet the requirement for satisfactory student achievement.²⁹

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

²⁸ Section 1002.33(9)(n)4.b., F.S.

²⁹ Florida Department of Education, *SB 796 Analysis* (2017), at 5 and Florida Department of Education, *SB 1362 Analysis* (2017), at 6. The Department’s SB 1362 Analysis contains the most recent data regarding the number of charter schools receiving charter school capital outlay allocations; thus, the number from this analysis is used here.

C. Government Sector Impact:

CS/SB 796 provides that new charter schools opened by High-Impact Charter Management Organizations in critical needs areas will be eligible for charter school capital outlay, notwithstanding the statutory requirements. It is not known how many such schools will be opened under the bill and will be eligible for charter school capital outlay funding.

The bill removes the requirement that a charter school must have satisfactory student achievement based on state accountability standards to receive charter school capital outlay funding. This may increase the number of charter schools that are eligible for and receive charter school capital outlay. In 2016-2017, 557 of the charter schools that applied to receive capital outlay funds were approved while 38 were denied for a failure to meet eligibility requirements and 15 of those were denied because of failure to meet the requirement for satisfactory student achievement.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.33, and 1013.62.

This bill creates the following section of the Florida Statutes: 1002.336.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education on April 17, 2017:

The committee substitute assigns a new section of law to the High-Impact Charter Management Organization provisions in the bill.

B. Amendments:

None.

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

³⁰ Florida Department of Education, *SB 796 Analysis* (2017), at 5 and Florida Department of Education, *SB 1362 Analysis* (2017), at 6. The Department's SB 1362 Analysis contains the most recent data regarding the number of charter schools receiving charter school capital outlay allocations; thus, the number from this analysis is used here.