

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

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

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

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BILL: CS/SB 934

INTRODUCER: Education Committee and Senator Diaz

SUBJECT: High-performing Charter Schools

DATE: April 8, 2019

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 934 modifies the high-performing charter school eligibility criteria and related authorities regarding increasing student enrollment and replicating charter schools. Specifically, the bill:

- Provides a mechanism for an alternative charter school to become a high-performing charter school, if the school received, instead of specified school grades, at least two school improvement ratings of “commendable” and no school improvement rating below ‘maintaining,’ during each of the previous three school years, and:
  - Applies the existing financial audit-related eligibility criteria to an alternative charter school that received the specified school improvement rating.
  - Eliminates the eligibility criteria for a charter school to become a high-performing charter school based on the school receiving two consecutive school grades of “A” in the most recent two school years.
- Modifies a high-performing charter school’s existing authority to increase its student enrollment once per school year to specify that the student enrollment may not exceed the current facility capacity.
- Reduces the number of charter schools that a high-performing charter school may establish within the state in any year from no more than two schools to no more than one school. The bill maintains current law that authorizes a high-performing charter school to establish more than one charter school within the state in any year if the high-performing charter school operates in the area of a persistently low-performing school and serves students from that school.

The bill does not have an impact on state revenues or expenditures. However, the bill will reduce the administrative fees that district school board sponsors may retain overall from funding provided to charter schools because high-performing charter schools will have a reduced administrative fee as compared to other charter schools.

The bill takes effect July 1, 2019.

## II. Present Situation:

All charter schools in Florida are public schools and are part of the state's program of public education.<sup>1</sup> A charter school may be formed by creating a new school or converting an existing public school to charter status.<sup>2</sup> During the 2017-18 school year, over 295,000 students were enrolled in 655 charter schools in 47 Florida districts.<sup>3</sup>

### High-Performing Charter Schools

According to the Florida Department of Education (DOE), 197 high-performing charter schools currently operate in Florida.<sup>4</sup>

#### *Eligibility Criteria*

A charter school is a high-performing charter school if the school:<sup>5</sup>

- Received at least two school grades of “A” and no school grade below “B,” during each of the previous three school years or received at least two consecutive school grades of “A” in the most recent two school years.
- Received an unqualified opinion on each annual financial audit required under law<sup>6</sup> 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 set forth in law<sup>7</sup> 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 pursuant to law.<sup>8</sup>

For purposes of determining initial eligibility, the financial audit requirements only apply for the most recent two fiscal years if the charter school earns two consecutive grades of “A.” A virtual charter school established in accordance with the law<sup>9</sup> is not eligible for designation as a high-performing charter school.

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

<sup>2</sup> *Id.*

<sup>3</sup> Florida Department of Education, *Fact Sheet: Florida's Charter Schools* (Sep. 2018), available at <http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2018.pdf>.

<sup>4</sup> Florida Department of Education, 2019 Agency Legislative Bill Analysis of SB 934 (March 13, 2019), at 2.

<sup>5</sup> Section 1002.331(1), F.S.

<sup>6</sup> Section 218.39, F.S.

<sup>7</sup> Section 218.39(1), F.S.

<sup>8</sup> Section 1002.345(1)(a)3., F.S.

<sup>9</sup> Section 1002.33, F.S.

### ***Statutory Authority***

A high-performing charter school is authorized to:<sup>10</sup>

- Increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the capacity of the facility<sup>11</sup> at the time the enrollment increase will take effect.
- 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 in law.<sup>12</sup>
- 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.

In addition, high-performing charter schools have less administrative fees withheld by district school boards. Specifically, school district sponsors may withhold up to two percent in administrative fees for enrollment up to and including 250 students in high-performing charter schools, compared to five percent administrative fees for other charter schools.<sup>13</sup>

### ***Replication***

Florida law authorizes a high-performing charter school to submit an application in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program.<sup>14</sup>

A high-performing charter school may not establish more than two charter schools within the state in any year.<sup>15</sup> However, a high-performing charter school is authorized to establish more than one charter school within the state in any year if the high-performing charter school operates in the area of a persistently low-performing school<sup>16</sup> and serves students from that school.<sup>17</sup> During the 2017-2018 school year, there were 48 persistently low-performing schools in Florida.<sup>18</sup>

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<sup>10</sup> Section 1002.331(2), F.S.

<sup>11</sup> Facility capacity for purposes of grade level expansion must include any improvements to an existing facility or any new facility in which a majority of the students of the high-performing charter school will enroll. *Id.*, at (a).

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

<sup>13</sup> Section 1002.33(20)(a)2, F.S.

<sup>14</sup> Section 1002.331(3)(a)1., F.S.

<sup>15</sup> Section 1002.33(b), F.S.

<sup>16</sup> A “persistently low-performing school” means a school that has earned three consecutive grades lower than a “C,” pursuant to s. 1008.34, and a school that was closed pursuant to s.1008.33(4) within 2 years after the submission of a notice of intent. Section 1002.333(1)(b), F.S.

<sup>17</sup> Section 1002.331(3)(b), F.S.

<sup>18</sup> Florida Department of Education, *2017-18 Persistently Low-Performing Schools*, available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/PLPSchools18.xls>.

## School Grade

Schools are graded using one of the following grades, defined according to rules of the State Board of Education (SBE or state board):<sup>19</sup>

- “A,” schools making excellent progress.
- “B,” schools making above average progress.
- “C,” schools making satisfactory progress.
- “D,” schools making less than satisfactory progress.
- “F,” schools failing to make adequate progress.

An alternative school<sup>20</sup> may choose to receive a school grade under this section or a school improvement rating.<sup>21</sup> For charter schools that meet the definition of an alternative school pursuant to state board rule, the decision to receive a school grade is the decision of the charter school governing board.<sup>22</sup>

## School Improvement Rating

The school improvement rating must identify an alternative school as having one of the following ratings defined according to SBE rules:<sup>23</sup>

- “Commendable” means a significant percentage of the students attending the school are making Learning Gains.
- “Maintaining” means a sufficient percentage of the students attending the school are making Learning Gains.
- “Unsatisfactory” means an insufficient percentage of the students attending the school are making Learning Gains.

### III. Effect of Proposed Changes:

#### High-Performing Charter Schools

##### *Eligibility Criteria*

Currently, only a charter school that receives a school grade can qualify as a high-performing charter school if the school meets the specified school grade and financial audit requirements specified in law. The bill creates a mechanism for an alternative charter school to also become a high-performing charter school if the alternative charter school received at least two school improvement ratings of “commendable” and no school improvement rating below “maintaining,” during each of the previous three school years. The bill maintains the existing financial audit-related eligibility criteria to also apply to an alternative charter school that received the specified school improvement rating.

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<sup>19</sup> Section 1008.34(2), F.S.

<sup>20</sup> An alternative school is a school that provides dropout prevention and academic intervention services pursuant to s. 1003.53, F.S. Section 1008.341(2), F.S. An alternative school must receive a school improvement rating unless the school earns a school grade pursuant to s. 1008.34. *Id.*

<sup>21</sup> Section 1008.34(3)(a)1., F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 1008.341(2), F.S.

During 2017-2018 school year, there were 74 alternative charter schools.<sup>24</sup> According to the DOE, there were nine alternative charter schools that received at least two school improvement ratings of “commendable” and no school improvement rating below “maintaining” for the three most recent years.”<sup>25</sup>

The bill also eliminates the following:

- The eligibility criterion based on a charter school receiving two consecutive grades of “A” in the most recent two school years. According to the DOE, of the 26 charter schools that earned high-performing status since the release of the 2017-2018 Florida school grades, 10 charter schools received high-performing status after showing two consecutive “A” grades.<sup>26</sup>
- The initial eligibility criterion that allows a charter school to meet the financial audit-related components of the eligibility criteria for the most recent two fiscal years if such school earns two consecutive grades of “A.”

By eliminating the eligibility criteria based on two consecutive school grades of “A,” the bill provides flexibility to charter schools regarding meeting the school grade requirement of two school grades of “A” and no school grade of “B” during the previous three school years. Additionally, the bill applies the financial audit requirements, based on a 3-year period, uniformly to charter schools that seek to become high-performing charter schools by eliminating the exception which allowed certain charter schools to fulfill the financial audit requirement for the most recent two years. Accordingly, the bill applies to any charter school that seeks to become a high-performing charter school, the existing 3-year timeframe associated with the school grade and financial audit-related components of the eligibility criteria for high-performing charter schools.

### ***Statutory Authority***

The bill modifies a high-performing charter school’s existing authority to increase its student enrollment once per school year to specify that the student enrollment may not exceed the school’s current facility capacity. Current law provides that the student enrollment may not exceed the capacity of the facility at the time the enrollment increase will take effect.<sup>27</sup>

### ***Replication***

The bill reduces the number of charter schools that a high-performing charter school may establish within the state in any year from no more than two schools to no more than one school. However, the bill maintains current law that authorizes a high-performing charter school to establish more than one charter school within the state in any year if the high-performing charter school operates in the area of a persistently low-performing school and serves students from that school.<sup>28</sup>

The bill takes effect July 1, 2019.

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<sup>24</sup> Email, Florida Department of Education (March 15, 2019).

<sup>25</sup> Florida Department of Education, 2019 Agency Legislative Bill Analysis of SB 934 (March 13, 2019), at 3.

<sup>26</sup> *Id.*

<sup>27</sup> Section 1002.331(2)(a), F.S.

<sup>28</sup> Section 1002.331(3)(b), F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill does not have an impact on state revenues or expenditures. However, the bill may impact the total amount of administrative fees that district school board sponsors may retain.<sup>29</sup> Pursuant to current law, a sponsor of a charter school may retain an administrative fee up to five percent of the funding provided to charter schools and up to two percent of the funding provided to high-performing charter schools.<sup>30</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>29</sup> Florida Department of Education, 2019 Agency Legislative Bill Analysis of SB 934 (March 13, 2019), at 4.

<sup>30</sup> Section 1002.33(20)(a)2., F.S.

**VIII. Statutes Affected:**

This bill substantially amends section 1002.331 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Education Committee on March 19, 2019:**

The committee substitute aligns the school improvement rating eligibility criterion with the existing school grade criterion for high-performing charter schools to specify that the school improvement ratings established in the bill apply to each of the previous three school years.

- B. **Amendments:**

None.