Committee on Education Appropriations

Tuesday, April 4, 2006
4:00 p.m. - 6:00 p.m.
212 Knott

Allan Bense
Speaker

Representative Pickens
Chair

Florida House of Representatives

Fiscal Council
Education Appropriations Committee

Allan Bense
Speaker

Joe Pickens
Chair

Agenda
Date: Tuesday, April 4, 2006
Location: 212 Knott Building
Time: 4:00 p.m. – 6:00 p.m.

I. Call to Order

II. Opening Remarks

III. Consideration of the following bill(s):
   a. **HB 19** University Building Designation by Justice
   b. **HB 135 CS** Charter Schools by Greenstein
   c. **HB 263** Florida Prepaid College Program by Mealor
   d. **HB 741 CS** Florida Center for Solid & Hazardous Waste Management by Greenstein
   e. **HB 765** Discounted Computers & Internet Access for Students by Jennings
   f. **HB 795 CS** Student Financial Assistance by Flores
   g. **HB 801 CS** Florida Ready to Work Certification Program by Patterson
   h. **HB 873 CS** Building Designations by Brandenburg
   i. **HB 899** Regional Consortium Service Organizations by Richardson
   j. **HB 987** Tax on Sales, Use, & Other Transactions by Gottlieb
   k. **HB 1085** Hillsborough County School District by Traviesa
   l. **HB 1171** Travel to Terrorist States by Rivera
   m. **HB 1237 CS** Advanced Science & Technology Research by Mealor
   n. **HB 1373 CS** Supplemental Educational Services by Attkisson
   o. **HB 7039** K-8 Virtual Schools by Stargel
   p. **HB 7097** Postsecondary Education by Patterson
   q. **HB 7103** Charter Schools by Stargel
   r. **HB 7119** Student Athlete Recruiting by Arza
   s. **HB 7171** Charter Schools by Choice and Innovation, Legg

IV. Closing Remarks

V. Adjournment

221 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300 (850) 488-6204

HB 19

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 19 University Building Designation
SPONSOR(S): Justice
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	10 Y, 0 N	Davis	Tilton
2) Education Appropriations Committee		Hamon K.W.H.	Hamon K.W.H.
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

Current law does not permit a state building, road, bridge, park, recreation complex, or similar facility to be named after a living person unless the name designation is approved by law. Pursuant to this requirement, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

The bill permits the University of South Florida St. Petersburg in Pinellas County to designate the building known as Coquina Hall as "H. William Heller Hall" and to erect suitable markers and signs acknowledging this designation. The bill takes effect upon the effective date of the retirement or resignation of H. William Heller from, or the termination of H. William Heller's employment with, the University of South Florida St. Petersburg.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Section 267.062, F.S., provides that no state building, road, bridge, park, recreational complex, or similar facility can be named after a living person unless approved by law. Therefore, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

A section-by-section analysis of the bill follows. The biographical information was provided by the University of South Florida St. Petersburg.

Section 1: The bill designates the building known as Coquina Hall at the University of South Florida St. Petersburg in Pinellas County as "H. William Heller Hall." Coquina Hall currently houses the College of Education. The bill directs the University of South Florida St. Petersburg to erect suitable markers and signs acknowledging the designation.

H. William Heller is a professor at the University of South Florida St. Petersburg. A former Vice President of the St. Petersburg campus, Dr. Heller joined the staff of the University of South Florida in 1992. Since that time, he has been awarded more than $18 million in grants and contracts and is currently responsible for directing, as principle investigator, projects funded in excess of $1 million.

Dr. Heller has been awarded the Presidential Citation for Exemplary Performance as Vice-Chairman of the White House Conference on Handicapped Individuals as well as the Teacher Educator of the Year Award, Teaching Education Division by the Council of Exceptional Children and the Merrill Publishing Company. He was also the recipient of the 1991 E. Wallace Wallin Award by the Council for Exceptional Children. This award, the highest honor bestowed by the Council, is predicated on excellence in leadership, service, and accomplishments in the education of children with exceptionalities. He has been awarded the United Way Alex de Tocqueville Society Volunteer Service Award, the Outstanding Service Award by the U.S. Air Force and U.S. Department of Defense, and the Romaine Mackie Leadership Award in Special Education by the Pioneer Division of the Council for Exceptional Children. In 2002, Dr. Heller was honored by the City of St. Petersburg for a "Decade of Excellence," and August 21, 2002, was proclaimed Bill Heller Day by the City of St. Petersburg. He was recently nominated for the Outstanding Leadership Award in Special Education by the Council for Exceptional Children; the recipient will be announced in April 2006. In addition, Dr. Heller was selected by faculty to become the first recipient of the Excellence in Professional Service Award from the University of South Florida St. Petersburg.

Dr. Heller has served in leadership roles with the Council for Exceptional Children, the American Association for Mental Retardation, the National Board for Professional Teaching Standards, the American Association for Colleges for Teacher Education, and the National Council for Accreditation of Teacher Education. He served two terms as the head of the Faculty Council for the St. Petersburg campus and was selected by the administration to chair the committee to revise the University of South Florida St. Petersburg Strategic Plan. His professional contributions include more than 350 presentations and publications.

Section 2: Provides an effective date of retirement or resignation of H. William Heller from, or the termination of H. William Heller's employment with, the University of South Florida St. Petersburg.

C. SECTION DIRECTORY:

This bill does not create, repeal, or amend any statutory sections. Please refer to Effect of Proposed Changes for a section by section analysis of the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

   Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

There will be an insignificant impact associated with the university erecting suitable markers for this name designation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

   This bill does not appear to raise constitutional issues.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to university building designation;
3 designating a building located at the University of South
4 Florida St. Petersburg as "H. William Heller Hall";
5 directing the university to erect suitable markers;
6 providing an effective date.
7
8 WHEREAS, under H. William Heller's leadership, the
9 University of South Florida St. Petersburg has seen new
10 developments, including the addition of lower-division academic
11 programming which advanced the campus from an institution
12 serving only juniors, seniors, and graduate students to a full
13 4-year institution, and
14 WHEREAS, under H. William Heller's leadership, the
15 University of South Florida St. Petersburg initiated the process
16 to achieve separate accreditation from the Southern Association
17 of Colleges and Schools, and
18 WHEREAS, under H. William Heller's leadership, the
19 University of South Florida St. Petersburg expanded course and
20 program offerings so that students now are able to take entire
21 course loads at the University of South Florida St. Petersburg
22 and graduate on a timely basis, and
23 WHEREAS, under H. William Heller's leadership, the
24 University of South Florida St. Petersburg won approval for
25 residence halls on campus, a first for a University of South
26 Florida regional campus, and
27 WHEREAS, under H. William Heller's leadership, the
28 University of South Florida St. Petersburg obtained nearly a 30-

29 percent budget increase as a result of 2002 legislative
30 appropriations, representing a milestone for the campus and
31 providing an opportunity for the university and campus to shape
32 academic programs for years to come, and
33 WHEREAS, under H. William Heller's leadership, the
34 University of South Florida St. Petersburg fostered
35 university/community partnerships with the Florida Humanities
36 Council, YWCA, All Children's Hospital, USGS, Pinellas County
37 schools, City of St. Petersburg, and Bayboro neighbors, and
38 WHEREAS, under H. William Heller's leadership, the
39 University of South Florida St. Petersburg increased diversity
40 among students and faculty, realizing a gain of 20.5 percent in
41 minority recruitment, and
42 WHEREAS, under H. William Heller's leadership, the
43 University of South Florida St. Petersburg expanded disability
44 services, and
45 WHEREAS, under H. William Heller's leadership, the
46 University of South Florida St. Petersburg implemented a
47 successful SAT preparation program for minorities, increasing
48 student SAT scores by an average of more than 100 points, and
49 WHEREAS, under H. William Heller's leadership, the
50 University of South Florida St. Petersburg completed an economic
51 impact study with projections to 2012, and
52 WHEREAS, under H. William Heller's leadership, the
53 University of South Florida St. Petersburg initiated and
54 completed revision of the 1994-1995 master plan for the campus,
55 and

56 WHEREAS, under H. William Heller's leadership, the
57 University of South Florida St. Petersburg increased access to
58 University of South Florida offerings throughout Pinellas County
59 by offering as many as 10 off-campus sites, and
60 WHEREAS, under H. William Heller's leadership, the
61 University of South Florida St. Petersburg increased student
62 enrollment by 55 percent in 5 years, surpassing FTE enrollment
63 goals, and
64 WHEREAS, under H. William Heller's leadership, the
65 University of South Florida St. Petersburg tripled enrollment in
66 the Honors Program in 2 years, and
67 WHEREAS, under H. William Heller's leadership, the
68 University of South Florida St. Petersburg implemented three new
69 degree programs, and
70 WHEREAS, under H. William Heller's leadership, the
71 University of South Florida St. Petersburg nearly tripled the
72 number of faculty members, and
73 WHEREAS, under H. William Heller's leadership, the
74 University of South Florida St. Petersburg developed a
75 responsive governance infrastructure for the campus,
76 establishing the first A&P and USPS councils, as well as the
77 Vice President's Council, and
78 WHEREAS, under H. William Heller's leadership, the
79 University of South Florida St. Petersburg spearheaded the Urban
80 Initiative, and
81 WHEREAS, under H. William Heller's leadership, the
82 University of South Florida St. Petersburg implemented a St.

83 Petersburg College presence on campus that provides educational
84 opportunities for approximately 500 students, and
85 WHEREAS, under H. William Heller's leadership, the
86 University of South Florida St. Petersburg created an internal
87 infrastructure that permits greater input into campus
88 decisionmaking by all groups on campus, and
89 WHEREAS, under H. William Heller's leadership, the
90 University of South Florida St. Petersburg promoted the offering
91 of Saturday classes on campus, and
92 WHEREAS, under H. William Heller's leadership, the
93 University of South Florida St. Petersburg increased external
94 funding exponentially, and
95 WHEREAS, the Legislature finds it appropriate to honor H.
96 William Heller's leadership and contributions to the University
97 of South Florida St. Petersburg and the Tampa Bay community,
98 NOW, THEREFORE,
99
100 Be It Enacted by the Legislature of the State of Florida:
101
102 Section 1. (1) The building known as Coquina Hall,
103 located on the campus of the University of South Florida St.
104 Petersburg in Pinellas County, is designated "H. William Heller
105 Hall."
106 (2) The University of South Florida St. Petersburg is
107 directed to erect suitable markers designating H. William Heller
108 Hall as described in subsection (1).
109 Section 2. This act shall take effect upon the effective
110 date of the retirement or resignation of H. William Heller from,

111 or the termination of H. William Heller's employment with, the
112 University of South Florida St. Petersburg.

HB 135 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 135 CS Charter Schools
SPONSOR(S): Greenstein
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1030

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee	7 Y, 0 N, w/CS	Hunker	Kooi
2) Civil Justice Committee	7 Y, 0 N	Shaddock	Bond
3) Education Appropriations Committee		Eggers ME	Hamon KWH
4) Education Council			
5)			

SUMMARY ANALYSIS

This bill provides that a district school board sponsor of a charter school will not be held liable for civil damages for actions or omissions committed by the charter school's governing board, its officers, or employees.

This bill also provides that the sponsor's duty to monitor a charter school may not be used as the basis for a lawsuit against the sponsor. However, a school district sponsor remains subject to tort liability for acts or omissions under the sponsor's direct authority. This bill further insulates a school district from assumption of contractual debts of the charter school to cover all contracts made between the charter school governing body and a third party.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill reduces the contractual liability of school district sponsors for the contracts of charter schools.

B. EFFECT OF PROPOSED CHANGES:

Background

Charter schools are public schools that operate under a performance contract, or a "charter," entered into with a sponsoring school district. The charter school statute (s. 1002.33, F.S.) frees a charter school from many regulations created for traditional public schools while holding such a charter school accountable for academic and financial results.

Current Law

School Board Sponsor Liability

Section 1002.33, F.S. is silent with respect to whether a sponsor school district can be held liable for the acts and omissions of charter schools or their agents, employees or governing board. In *P.J. v. Gordon*, the United States District Court for the Southern District of Florida ruled that the school board's statutory responsibilities for approving the school's charter and monitoring its implementation do not subject it to civil liability for actions and omissions relating to the day-to-day management of the charter school.[1] The court noted the district sponsor's statutory duties involve ensuring academic accountability, monitoring revenues and expenditures, and approving and monitoring the provisions of the charter agreement. The court specifically ruled that s.1002.33, F.S. imposes no duty on the school board sponsor to monitor or supervise the hiring, training or supervision of the charter school's employees or to ensure that the charter school maintains adequate procedures for ensuring the safety and welfare of its students.[2]

Sovereign Immunity

"Article X, section 13 of the Florida Constitution provides 'absolute immunity for the state and its agencies absent waiver by legislative enactment or a constitutional amendment.'"[3] Section 768.28(5), F.S., provides a limited waiver of the state's sovereign immunity by making the state and its agencies and subdivisions liable for tort claims in the same manner and to the same extent as a private individual under the circumstances. Florida's Fourth District Court of Appeal recently affirmed that certain discretionary, planning-level decisions of a school board remain immune from tort liability.[4]

Contract Liability

In the event of a non-renewal or termination of a charter, s. 1002.33, F.S. currently prevents a district from assuming any of the charter school's debts for service contracts, except where the district and the

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[1] *P.J. v. Gordon*, 359 F.Supp. 2d 1347, 1351 (SD Fla. 2005).
[2] *Id.* at 1349-50.
[3] *Orlando v. Broward County*, 920 So. 2d 54 (Fla. 4th DCA 2005) (quoting *Cir Ct. of the Twelfth Jud. Cir. v. Dep't of Natural Resources*, 339 So. 2d 1113, 1114 (Fla. 1976).
[4] *Id.* (citing *Commercial Carrier Corp. v. Indian River County*, 371 So. 2d 1010, 1022 (Fla. 1979)(holding that although s. 768.28 evinces the intent of the legislature to waive sovereign immunity on a broad basis, nevertheless, certain "discretionary" governmental functions remain immune from tort liability)).

charter school governing board previously agreed in detail in writing that the district would assume the debt.

Effect of Bill

This bill codifies the court's ruling in *P.J.* with regard to the district's immunity from suit for day-to-day operations (acts and omissions) of a charter school as well as employment actions of a charter school. The bill further provides the district with protection from any private cause of action based on the monitoring responsibilities of the district with regard to any charter school it sponsors.

In the context of charter schools, to the extent a sponsor school district's monitoring duties may be properly characterized as "discretionary" or "planning-level," they may already be immune from tort liability under the doctrine of sovereign immunity. The bill serves as legislative intent *not* to waive sovereign immunity for such duties.

This bill expands the contract limitation to include all contractual debts of the charter school, not just those for services. Finally, the bill includes a provision that school district sponsors remain subject to liability for acts or omissions under the sponsor's direct authority as described in s. 1002.33, F.S.

C. SECTION DIRECTORY:

Section 1, amends s. 1022.33, F.S. relating to charter schools.

Section 2, provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   Access to Courts

   Article I, section 21 of the Florida Constitution provides: "The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay."[5] In *Kluger v. White*,[6] the Florida Supreme Court held that where a right to access the courts for redress for a particular injury predates the adoption of the access to courts provision in the 1968 state constitution, the Legislature cannot abolish the right without providing a reasonable alternative unless the Legislature can show an overpowering public necessity to abolish the right and no alternative method of meeting such public necessity.[7]

   Based on the ruling by the court in *P.J. v. Gordon* it does not appear that a person has a cause of action to sue a school board for the torts of a charter school. To the extent that this bill merely codifies existing law, it may not implicate the access to court provision.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Choice and Innovation Committee adopted one amendment and reported the bill favorably with a Committee Substitute (CS). The amendment narrowed the scope of the expression of intent not to waive sovereign immunity.

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[5] *See generally* 10A Fla. Jur. 2d, Constitutional Law, ss. 360-69.
[6] *Kluger v. White*, 281 So. 2d 1 (Fla. 1973).
[7] *Kluger* at 4.

CHAMBER ACTION

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1 The Choice & Innovation Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to charter schools; amending s. 1002.33,
7 F.S.; providing that the sponsor of a charter school shall
8 not be liable for civil damages for certain actions;
9 providing that the duty to monitor a charter school shall
10 not be the basis for a private cause of action;
11 prescribing limits on immunities of a charter school
12 sponsor; expanding a school district's immunity from
13 assumption of contractual debts; providing an effective
14 date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Paragraph (b) of subsection (5) and paragraph
19 (f) of subsection (8) of section 1002.33, Florida Statutes, are
20 amended to read:
21 1002.33 Charter schools.--
22 (5) SPONSOR; DUTIES.--
23 (b) Sponsor duties.--

24 1.a. The sponsor shall monitor and review the charter
25 school in its progress toward the goals established in the
26 charter.
27 b.~~2.~~ The sponsor shall monitor the revenues and
28 expenditures of the charter school.
29 c.~~3.~~ The sponsor may approve a charter for a charter
30 school before the applicant has secured space, equipment, or
31 personnel, if the applicant indicates approval is necessary for
32 it to raise working capital.
33 d.~~4.~~ The sponsor's policies shall not apply to a charter
34 school.
35 e.~~5.~~ The sponsor shall ensure that the charter is
36 innovative and consistent with the state education goals
37 established by s. 1000.03(5).
38 f.~~6.~~ The sponsor shall ensure that the charter school
39 participates in the state's education accountability system. If
40 a charter school falls short of performance measures included in
41 the approved charter, the sponsor shall report such shortcomings
42 to the Department of Education.
43 g. The sponsor shall not be liable for civil damages under
44 state law for personal injury, property damage, or death
45 resulting from an act or omission of an officer, employee,
46 agent, or governing body of the charter school.
47 h. The sponsor shall not be liable for civil damages under
48 state law for any employment actions taken by an officer,
49 employee, agent, or governing body of the charter school.
50 i. The sponsor's duties to monitor the charter school
51 shall not constitute the basis for a private cause of action.

52 2. Immunity for the sponsor of a charter school under
53 subparagraph 1. applies only with respect to acts or omissions
54 not under the sponsor's direct authority as described in this
55 section.
56 3. Nothing contained in this paragraph shall be considered
57 a waiver of sovereign immunity by a district school board.
58
59 A community college may work with the school district or school
60 districts in its designated service area to develop charter
61 schools that offer secondary education. These charter schools
62 must include an option for students to receive an associate
63 degree upon high school graduation. District school boards shall
64 cooperate with and assist the community college on the charter
65 application. Community college applications for charter schools
66 are not subject to the time deadlines outlined in subsection (6)
67 and may be approved by the district school board at any time
68 during the year. Community colleges shall not report FTE for any
69 students who receive FTE funding through the Florida Education
70 Finance Program.
71 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--
72 (f) If a charter is not renewed or is terminated, the
73 charter school is responsible for all debts of the charter
74 school. The district may not assume the debt from any contract
75 ~~for services~~ made between the governing body of the school and a
76 third party, except for a debt that is previously detailed and
77 agreed upon in writing by both the district and the governing
78 body of the school and that may not reasonably be assumed to
79 have been satisfied by the district.

80 Section 2. This act shall take effect July 1, 2006.

HB 263

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 263 Florida Prepaid College Program
SPONSOR(S): Mealor
TIED BILLS: **IDEN./SIM. BILLS:** SB 550

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	9 Y, 0 N	Davis	Tilton
2) Education Appropriations Committee		Hammock	Hamon
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

The bill removes a restriction on the types of postsecondary educational institutions in which a qualified beneficiary may use his or her benefits under the Florida Prepaid College Program (Florida Prepaid). The requirement is deleted that an accredited independent college or university in the state of Florida be not-for-profit to be eligible for the transfer of benefits.

The bill appears to have no fiscal impact on state or local government and a positive fiscal impact on the private sector. See the FISCAL ANALYSIS section for further details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty- The bill removes the restriction that an accredited independent college or university in the state of Florida be not-for-profit to be eligible for the transfer of benefits, thereby expanding the number of choices available to beneficiaries of the Florida Prepaid College Plan.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Prepaid College Program (Florida Prepaid) is a state program created to encourage families to save for the expenses of higher education. It was established in 1987 to allow Florida residents to pay the cost of higher education in advance at a fixed level and with statutory state guarantee.[1]

The program allows the purchaser to establish an account for a beneficiary (the student) and to lock in the future cost of a two-year community college program, a four-year university program, or a combination of two years of each. Local fee and dormitory plans may be purchased in addition to the tuition plans. Account holders may make lump sum or periodic payments. Prices are based on the beneficiary's age and actuarial assumptions about rates of tuition, fee, and dormitory cost inflation and investment return.[2]

Florida Prepaid is the largest program of its type in the nation. As of June 2005, the program has sold 1,052,080 contracts.[3] Florida Prepaid is administered by the Florida Prepaid College Board (the Board), which is administratively housed in the State Board of Administration (SBA). The SBA provides administrative and investment services and approves the Board's Comprehensive Investment Strategy. Otherwise, the Board operates independently.[4]

Currently, a qualified beneficiary may apply the benefits of an advance payment contract toward:

- An independent college or university that is located and chartered in Florida that is not-for-profit, that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS) or the Accrediting Council for Independent Colleges and Schools (ACICS), and that confers degrees in accordance with s. 1005.02, F.S.;
- An out-of-state college or university that is not-for-profit and is accredited by a regional accrediting association and that confers degrees; or
- An applied technology diploma program or career certificate program conducted by a community college listed in s. 1004.02(2) F.S., or a career center operated by a district school board.

Effect of Proposed Changes

The bill removes the requirement that an accredited independent college or university in the state of Florida be not-for-profit to be eligible for the transfer of Florida Prepaid benefits. The not-for-profit requirement remains in effect for out-of-state colleges and universities.

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[1] See s. 1009.97, F.S.
[2] See s. 1009.98, F.S.
[3] Florida Prepaid College Board
[4] See ss. 1009.971 and 1009.973, F.S.

According to Department of Education and Florida Prepaid representatives, removing the not-for-profit requirement would make 18 additional institutions eligible for the transfer of benefits.

The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends paragraph (a) of subsection (3) of s. 1009.98, F.S., deleting the requirement that an accredited independent college or university in the state of Florida be a not-for-profit institution to be eligible for transfer of benefits.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill appears to have a positive fiscal impact on the private sector. The transfer of benefits to an accredited for-profit institution provides contract purchasers with increased flexibility and may increase enrollment at such institutions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the Florida Prepaid College Program;
3 amending s. 1009.98, F.S.; deleting the requirement that
4 an independent college or university be a not-for-profit
5 institution to be eligible for transfer of benefits;
6 providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (a) of subsection (3) of section
11 1009.98, Florida Statutes, is amended to read:
12 1009.98 Florida Prepaid College Program.--
13 (3) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE
14 COLLEGES AND UNIVERSITIES AND TO CAREER CENTERS.--A qualified
15 beneficiary may apply the benefits of an advance payment
16 contract toward:
17 (a) An independent college or university that is located
18 and chartered in Florida, ~~that is not for profit,~~ that is
19 accredited by the Commission on Colleges of the Southern
20 Association of Colleges and Schools or the Accrediting Council
21 for Independent Colleges and Schools, and that confers degrees
22 as defined in s. 1005.02.
23
24 The board shall transfer or cause to be transferred to the
25 institution designated by the qualified beneficiary an amount
26 not to exceed the redemption value of the advance payment
27 contract at a state postsecondary institution. If the cost of
28 registration or housing fees at such institution is less than

29 the corresponding fees at a state postsecondary institution, the
30 amount transferred may not exceed the actual cost of
31 registration and housing fees. A transfer authorized under this
32 subsection may not exceed the number of semester credit hours or
33 semesters of dormitory residence contracted on behalf of a
34 qualified beneficiary. Notwithstanding any other provision in
35 this section, an institution must be an "eligible educational
36 institution" under s. 529 of the Internal Revenue Code to be
37 eligible for the transfer of advance payment contract benefits.
38 Section 2. This act shall take effect July 1, 2006.

HB 741 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 741 CS Florida Center for Solid and Hazardous Waste Management
SPONSOR(S): Greenstein
TIED BILLS: **IDEN./SIM. BILLS:** SB 876

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	10 Y, 0 N, w/CS	Davis	Tilton
2) Education Appropriations Committee		Hamon K.W.H.	Hamon K.W.H.
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

This bill designates the Florida Center for Solid and Hazardous Waste Management as the "William W. 'Bill' Hinkley Center for Solid and Hazardous Waste Management" and directs the Department of Environmental Protection, in coordination with the University of Florida and the University of Florida Foundation, to erect suitable markers acknowledging the designation. The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

A section-by-section analysis of the bill follows. The biographical information was provided by the sponsor of the proposed designation.

Section 1: The bill designates the Florida Center for Solid and Hazardous Waste Management (FCSHWM) as the "William W. 'Bill' Hinkley Center for Solid and Hazardous Waste Management." The Department of Environmental Protection, in coordination with the University of Florida and the University of Florida Foundation, is directed to erect suitable markers reflecting this designation.

The FCSHWM was created by the Legislature in 1988 as a Type I center to coordinate research, training, and service activities related to waste management.[1] The center is responsible for coordinating research efforts at Florida's universities, providing information and technical assistance to government, business, and industry, and fulfilling public needs in the area of waste management.[2] The center is housed at the University of Florida in Gainesville.

The FCSHWM works closely with 9 universities in an effort to fulfill their two major objectives: 1) to develop and test innovative, low-cost, and environmentally sound methods to manage solid and hazardous waste; and 2) to present research results to public and private sectors to develop practical solutions for waste management problems. The center also has a strong research relationship with the Department of Environmental Protection (DEP).

William W. "Bill" Hinkley was employed at the DEP for almost thirty years, serving most recently as the Chief of the Bureau of Solid and Hazardous Waste. A champion of environmental protection, he was responsible for the drafting and enactment of the 1988 Solid Waste Management Act, the growth of the Florida recycling program, and the development of several regulations governing hazardous waste.

Mr. Hinkley was also involved in several national activities aimed at environmental protection, including the U.S. Environmental Protection Agency, the Energy Research Advisory Board of the U.S. Department of Energy, and the National Recycling Coalition.

For his dedication to environmental protection, Mr. Hinkley earned many awards and recognitions. In 2004, he became an honorary member of the Solid Waste Association of America (SWANA). He also earned such honors as being named the Conservationist of the Year by the Florida Wildlife Federation, receiving the Outstanding Contribution Award from SWANA, and receiving a Special Recognition Award from Keep Florida Beautiful, Inc. Mr. Hinkley was also highly regarded among his peers and colleagues, being recognized for Sustained Exemplary Performance in 1999 and being named the DEP Employee of the Year in 2001.

Bill Hinkley passed away on September 12, 2005.

Section 2: Provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

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[1] s. 1004.47, F.S.

[2] http://www.floridacenter.org/about1.htm, Florida Center for Solid and Hazardous Waste Management, About the Center.

This bill does not create, repeal, or amend any statutory sections. Please refer to EFFECT OF PROPOSED CHANGES for a section by section analysis of the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

   Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

There will be an insignificant impact associated with the Department of Environmental Protection, the University of Florida, and the University of Florida Foundation erecting suitable markers for the name designation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

   This bill does not appear to raise constitutional issues.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Colleges and Universities Committee adopted an amendment to HB 741. The bill was reported favorable with a Committee Substitute (CS). The CS directs the Department of Environmental Protection, in coordination with the University of Florida and the University of Florida Foundation, to erect suitable markers reflecting the designation of the Florida Center for Solid and Hazardous Waste Management as the "William W. 'Bill' Hinkley Center for Solid and Hazardous Waste Management."

CHAMBER ACTION

The Colleges & Universities Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Florida Center for Solid and Hazardous Waste Management; designating the Florida Center for Solid and Hazardous Waste Management as the William W. "Bill" Hinkley Center for Solid and Hazardous Waste Management; directing the Department of Environmental Protection, in coordination with the University of Florida and the University of Florida Foundation, to erect suitable markers; providing an effective date.

WHEREAS, efforts to conserve and recycle the natural resources of this state have been well served by the tireless efforts of William W. "Bill" Hinkley throughout his career of public service, and

WHEREAS, Mr. Bill Hinkley has provided leadership, candor, and enthusiasm to the public debate at federal, state, and local levels of government on matters concerning solid and hazardous waste management, and

23 WHEREAS, the laws in this state governing waste management
24 to protect the public health, safety, and welfare have been
25 directly impacted by the active participation of Mr. Bill
26 Hinkley, and
27 WHEREAS, Mr. Bill Hinkley has stressed the promotion,
28 importance, and role of science in all his endeavors to help
29 improve the management of solid and hazardous waste, and
30 WHEREAS, the Florida Center for Solid and Hazardous Waste
31 Management (FCSHWM) was formed in 1988 by action of the
32 Legislature for the purpose of coordinating the research,
33 training, and service activities related to solid and hazardous
34 waste management conducted by state universities, and
35 WHEREAS, the data and information generated by research
36 sponsored by the FCSHWM has been an important factor in
37 decisions made by the Legislature, local governments, and the
38 Department of Environmental Protection, and
39 WHEREAS, Bill Hinkley has been a key staff member of the
40 Department of Environmental Protection for almost 30 years and
41 has been sought out by many members of the Senate and House of
42 Representatives for his thoughts and advice on a large number of
43 very diverse environmental matters that were the object of a
44 great deal of debate, and
45 WHEREAS, Bill Hinkley has always provided sound and
46 unbiased information and counsel to many members of the
47 Legislature, NOW, THEREFORE,
48
49 Be It Enacted by the Legislature of the State of Florida:
50

51 Section 1. William W. "Bill" Hinkley Center for Solid and
52 Hazardous Waste Management designated; Department of
53 Environmental Protection to erect suitable markers.--
54 (1) The Florida Center for Solid and Hazardous Waste
55 Management is designated as the "William W. 'Bill' Hinkley
56 Center for Solid and Hazardous Waste Management."
57 (2) The Department of Environmental Protection, in
58 coordination with the University of Florida and the University
59 of Florida Foundation, is directed to erect suitable markers
60 designating the William W. "Bill" Hinkley Center for Solid and
61 Hazardous Waste Management as described in subsection (1).
62 Section 2. This act shall take effect July 1, 2006.

HB 765

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 765 Discounted Computers and Internet Access for Students
SPONSOR(S): Jennings
TIED BILLS: **IDEN./SIM. BILLS:** SB 502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee	7 Y, 0 N	Hunker	Kooi
2) Education Appropriations Committee		Eggers	Hamon K.W.H.
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

This bill creates a program to offer computers and broadband Internet access at a discounted price to students enrolled in grades 5 through 12. The program requires the Department of Education (DOE) to negotiate with computer manufacturers and nonprofit corporations that obtain reconditioned computer hardware over the prices, hardware and software packages, warranties, and internet access packages. The bill directs the State Board of Education to make rules regarding implementation of the program.

The bill also creates a pilot project to be implemented by the Digital Divide Council in consultation with DOE to assist low-income students in purchasing discounted computers and Internet access services as negotiated by the DOE. The pilot project is to be funded in an amount determined by the General Appropriations Act, and the Digital Divide Council may accept additional grants from public and private sources to implement the project.

The fiscal impact of the bill would be determined in the General Appropriations Act. See the FISCAL COMMENTS section of the analysis.

The bill states that it shall take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill grants rulemaking authority to the State Board of Education to implement the discounted computers and internet program.

Empower Families – This bill benefits parents of public school students in grades 5 through 12 by providing them with an option to purchase discounted computers and internet packages negotiated by the Department of Education (DOE).

B. EFFECT OF PROPOSED CHANGES:

The 2005-2006 fiscal year budget provided $49.9 million for public school technology, which is allocated to districts on a per-student basis. Districts use the funds for a number of technology needs and initiatives. Currently, there is no statewide program that provides students with discounted computers and internet access or that provides assistance to low-income students for the purchase of a computer and internet access.

This bill requires DOE to negotiate with computer manufacturers and with nonprofit corporations that obtain reconditioned computer hardware concerning prices of discounted computers and accessories, specialized software and hardware packages, and warranties. Also, the DOE is required to negotiate with broadband Internet access providers the prices of broadband Internet access packages and with non-broadband internet access providers in areas where broadband internet access is unavailable.

The bill requires the State Board of Education to adopt rules that provide for the integration of computer or technical training to students, the notification to parents of the discounted computer and Internet access choices available, the distribution of eligibility certificates, the locations where the discounted computers and Internet services are available, and how students may obtain and pay for the equipment and services.

The bill also creates a pilot project to be implemented by the Digital Divide Council in consultation with the DOE.[1] The bill creates this program to assist low-income students to purchase the discounted computers and Internet access services as negotiated by the DOE. The Digital Divide Council is required to identify the counties, grade levels, and low-income eligibility criteria for participation in the pilot project. The bill provides that the pilot project shall be funded through the General Appropriations Act and that the Digital Divide Council may accept grants from additional public and private sources to implement the project.

C. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law to establish a program to offer computers and internet access to students at a discounted price.

Section 2: Creates an unnumbered section of law to establish a pilot project to provide computers and internet access to low-income students at a discounted price. References funding provided in the General Appropriations Act.

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[1] The Digital Divide Council was established by the 2001 Legislature and was created within the State Technology Office (STO). The STO was abolished in the 2005 Legislature Session; however, the Council is presently reorganizing under new council membership and will focus much of its future work on the coordination of multiple initiatives and funding streams from local and state organizations to impact technology literacy, accessibility, and learning for struggling and low income students and their families. *Senate Staff Analysis and Economic Impact Statement: SB 502, prepared by the Education Committee, 2006.*

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may create an opportunity for parent-consumers to purchase computers and Internet services that would not otherwise exist. The manufacturers and non-profit organizations providing the computers may make sales to parent-consumers that would not otherwise have taken place.

D. FISCAL COMMENTS:

There will be an increase in state government expenditures to the extent the program and pilot project are funded by the General Appropriations Act (GAA). The House proposed General Appropriations Act (House Bill 5001, Specific Appropriation 138) contains $1.7 million for Santa Fe Community College to implement a Rural and Urban Technology Initiative in a manner similar to the provisions of this bill.

There may be an indeterminate cost to the Department of Education for the costs associated with organizing the program, negotiating prices with computer manufacturers and internet service providers, and providing computer and technical training to students.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

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

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules regarding integration of the pilot program into training students at the district level. It also directs the State Board of Education to make rules on notifying parents of the discounted computer and Internet access choices available, the distribution of eligibility certificates to students, and how and where computers and internet access service will be made available for purchase.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to discounted computers and Internet
3 access for students; creating a program to offer
4 discounted computers and Internet access to public school
5 students and students in home education programs in grades
6 5 through 12; requiring the Department of Education to
7 negotiate terms with computer manufacturers, certain
8 nonprofit corporations, and broadband Internet access
9 providers; requiring the State Board of Education to adopt
10 rules, including rules for provision of technical training
11 to students; requiring the Digital Divide Council to
12 implement a pilot project to assist low-income students
13 with purchasing discounted computers and Internet access
14 services; requiring the council to identify eligibility
15 criteria for participation in the pilot project; providing
16 for funding and authorizing the council to accept grants
17 to implement the pilot project; providing an effective
18 date.
19
20 Be It Enacted by the Legislature of the State of Florida:
21
22 Section 1. Discounted computers and Internet access for
23 students.--
24 (1) There is created a program to offer computers and
25 Internet access at a discounted price to students enrolled in
26 grades 5 through 12 in a public school, including a charter
27 school, or a home education program in the state.
28 (2) The Department of Education shall negotiate with

29 computer manufacturers and with nonprofit corporations that
30 obtain reconditioned computer hardware concerning:
31 (a) The prices of discounted computers and whether
32 computer accessories such as printers or scanners will be
33 offered to the students at reduced prices.
34 (b) Specialized software and hardware packages, including,
35 but not limited to:
36 1. A word processor.
37 2. Software and hardware necessary to enable broadband
38 Internet access.
39 3. An operating system.
40 (c) The type of warranty that is to be provided to the
41 students and whether an extended warranty will be available to
42 the students and under what terms.
43 (3) The Department of Education shall negotiate with
44 broadband Internet access providers concerning the prices of
45 discounted broadband Internet access packages. In areas in which
46 broadband Internet access is not currently available, the
47 department shall negotiate with non-broadband Internet access
48 providers.
49 (4) The State Board of Education shall adopt rules
50 concerning:
51 (a) How to integrate into this program the provision of
52 computer or technical training to students in their respective
53 school districts.
54 (b) How parents and students may be notified of the
55 discounted computer and Internet access choices available.
56 (c) The distribution of eligibility certificates to the

57 students, the locations at which discounted computers and
58 Internet access services are available for purchase, and how
59 students may obtain and pay for the equipment and services
60 covered by this program.
61 Section 2. Discounted computers and Internet access for
62 low-income students; pilot project.--
63 (1) The Digital Divide Council, in consultation with the
64 Department of Education, shall implement a pilot project to
65 assist low-income students to purchase discounted computers and
66 Internet access services as negotiated by the department. The
67 council shall identify counties, grade levels, and low-income
68 eligibility criteria for participation in the pilot project.
69 (2) The pilot project shall be funded in an amount to be
70 determined in the General Appropriations Act. The Digital Divide
71 Council is authorized to accept grants from additional public
72 and private sources to implement the pilot project.
73 Section 3. This act shall take effect July 1, 2006.

HB 795 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 795 CS Student Financial Assistance
SPONSOR(S): Flores
TIED BILLS: **IDEN./SIM. BILLS:** SB 1750

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	9 Y, 1 N, w/CS	Hatfield	Tilton
2) Education Appropriations Committee		Hammock	Hamon
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

HB 795 creates the First Generation Matching Grants Program (program). The program is created to enable each state university and community college to provide donors with a matching grant incentive for contributions that will create grant-based student financial aid for undergraduate students who demonstrate financial need and whose parents have not earned a baccalaureate degree. The bill requires that applicants meet certain eligibility requirements to be eligible to receive a grant.

The bill requires appropriated funds for the program to be allocated by the Office of Student Financial Assistance (OSFA) to match private contributions on a dollar-for-dollar basis. The bill requires that 50 percent of the allocated funds be reserved for state universities and the remaining 50 percent for community colleges. Within this allocation, OSFA must reserve a proportionate allocation for each state university and community college on the basis of full-time equivalent enrollments. Funds that remain unmatched as of December 1 must be reallocated to state universities and community colleges that have remaining unmatched private contributions for the program on the basis of full-time equivalent enrollments.

Each participating state university and community college is required to establish an application process, determine student eligibility for initial and renewal awards in conformance with the eligibility requirements each applicant must fulfill, identify the amount awarded to each recipient, and notify recipients of the amount of their awards. The bill also requires annual reports by each participating institution.

This bill also revises provisions relating to the determination of a student's residency status for tuition purposes by extending residency status to any student, other than a nonimmigrant alien within the meaning of federal law, who meets the following criteria:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.
- Has attended a Florida high school for at least 3 consecutive years during such time.
- Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 79) provides an appropriation of $14,000,000 for the program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill creates the First Generation Matching Grant Program to provide financial aid to undergraduate students with financial need whose parents have not earned college degrees. In creating this program, the bill provides duties of state universities and community colleges participating in the program.

Safeguard individual liberty—The bill provides for grants to be awarded to eligible applicants to cover the annual cost of attendance at a state university or community college. Recipients of this grant have the ability to attend a state university or community college where previously this may not have been possible.

Empower families—The bill provides for grants to be awarded to eligible applicants to cover the annual cost of attendance at a state university or community college. This may benefit families who do not have the financial means to send a family member to college if a family member is awarded a grant under this program. The bill expands the categories of students who may be classified as residents for tuition purposes. Those who previously could not afford a post-secondary education may now be eligible for in-state tuition, providing a more affordable education.

B. EFFECT OF PROPOSED CHANGES:

Background

On January 11, 2006 Governor Bush announced his Access and Diversity Initiative (Initiative). According to the Governor's January 11th Press Release, the purpose of the Initiative is to provide incentives to traditionally underrepresented students seeking an education in Florida's state university system. The Initiative includes recommendations by the Governor for increased funding for need based financial aid, the creation of a new scholarship program titled the First Generation Matching Grants, and the creation of an Access and Diversity Commission (Commission).

In addition to the announcement of the Initiative, the Governor also signed Executive Order 06-05 creating the 17-member Commission. The Executive Order provides for the Commission to meet in conjunction with the Student Affairs Committee of the Florida Board of Governors to evaluate issues surrounding disadvantaged and traditionally underrepresented students and advocate and make recommendations concerning the following:

- Specific accountability and performance measures regarding traditionally underrepresented and economically disadvantaged students for the Board of Governors and state universities to include in their strategic plans or performance evaluations.

- Need-based financial aid: Enhanced public and private need-based aid and financial assistance and, specifically, increased funding for Florida Student Assistance Grants (FSAG).

    - According to the Governor's Press Release, the Governor plans to recommend a $35.8 million increase in need-based funding through FSAG and will also recommend an additional $1.1 million in funding for need-based financial aid at Florida's four Historically Black Colleges and Universities.

- College Board Partnership: Additional funding for the College Board Partnership to expand services that enhance student college readiness for traditionally underrepresented students.

Services include AP, PSAT and SAT teacher training; college admission test preparation; SAT preparation; tutoring programs to help students transition into college and family information on colleges.

  - According to the Governor's Press Release, the Governor plans to recommend an increase in funding for the state's partnership with the College Board from $7.1 million to $10.1 million.

- Stanley Tate Project STARS SCHOLARSHIP Program: Additional funding for the STARS Program, which provides prepaid scholarships for at-risk, low-income students who remain drug and crime-free, stay in school and work with a mentor.

  - According to the Governor's Press Release, the Governor plans to recommend an increase in funding for this program by $4 million, for a total of $10 million. These state funds combined with private donations will provide an additional 2,090 scholarships, which pay for tuition at state universities and community colleges.

- College Reach-Out Program (CROP): Increased funding for CROP to provide additional after-school and weekend counseling and tutorial services, to increase participation in AP classes, to provide transportation to classes for dually enrolled students, and to purchase computers to provide increased access to the Florida Virtual School.

  - According to the Governor's Press Release, the Governor will recommend a $1 million increase in funding for the CROP program. The funding will expand counseling and tutorial services, serving an additional 1,654 individuals, for a total of 10,200 students. It will also help expand after-school and Saturday programs, provide transportation to classes for dually enrolled students and assist in the purchase of computers to provide access to the Florida Virtual School across the 38 CROP post-secondary institutions.

- First Generation Matching Grants: The establishment of this program will provide scholarships to full-time students who are Florida residents, are the first in their families to attend college, and have demonstrated a financial need.

  - According to the Governor's Press Release, this $6.5 million program will provide a dollar-for-dollar match for private donations to state universities

- University Presidents' Focus on Achievement Mentoring Partnership: Expanding mentoring to target low income middle school students and matching them with local campus compact mentors trained by Volunteer Florida Foundation. The purpose is to encourage economically disadvantaged and traditionally underrepresented students to pursue post-secondary goals and prepare these students for state university enrollment.

Executive Order 06-05 requires the Commission to present a Final Report on its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Board of Governors by June 30, 2006. At such time the Commission will also disband.

Residency

Current law designates certain categories of persons as residents for tuition purposes, such as active duty members of the Armed Services of the U.S. residing or stationed in Florida and their dependents, U.S. citizens living on the Isthmus of Panama who have completed 12 consecutive months of college work at the FSU Panama Canal Branch and their dependents, and active duty members of a foreign

nation's military who are serving as liaison officers and are residing or stationed in this state and their dependents.[1]

Undocumented aliens, with certain exceptions as provided in federal law, may not establish legal residence in the state for tuition purposes because their residency in the state is in violation of federal law, as they have not been properly admitted into the United States.[2] Undocumented aliens are accordingly classified as nonresidents for tuition purposes. Many of these undocumented aliens attend Florida high schools and obtain a high school diploma or the equivalent, as the state may not bar these individuals from attending elementary, middle, or secondary schools.[3] Due to the increased cost of attending a public post-secondary institution as a nonresident, these students may not be able to pursue their education at the post-secondary level.

Nonimmigrant aliens, as defined in 8 U.S.C. s. 1101(a)(15), are aliens lawfully admitted into the U.S. but whose duration of stay is set forth in the applicable visa under which admittance is granted. These classes include, among others, foreign diplomats and their dependents, temporary business or tourist visitors, crew of merchant vessels and civil aircraft, and foreign students having *bona fide* residences abroad that they do not intend to abandon. Most nonimmigrant visas, but not all, require the holder of the visa to intend to return to the nonimmigrant's country of residence upon termination of the visa. Students under an F-1 visa or an M-1 visa are required to intend to return to their country of residence. If a nonimmigrant stays beyond the limitations of the visa, the nonimmigrant is no longer lawfully within the U.S. and may be subject to deportation.[4]

Effect of Proposed Changes

The bill creates the First Generation Matching Grant Program (program), one of the seven initiatives addressed by the Governor's Executive Order. The program is created to enable each state university and community college to provide donors with a matching grant incentive for contributions that will create grant-based student financial aid for undergraduate students who demonstrate financial need and whose parents have not earned a baccalaureate degree.

The bill requires appropriated funds for the program to be allocated by the Office of Student Financial Assistance (OSFA) to match private contributions on a dollar-for-dollar basis. Matching funds must be generated through contributions pledged for the purpose of this program and not for any other state matching program. Pledged contributions are not eligible for matching prior to the actual collection of the total funds. The bill requires that 50 percent of the allocated funds be reserved for state universities and the remaining 50 percent for community colleges. Within this allocation, OSFA must reserve a proportionate allocation for each state university and community college on the basis of full-time equivalent enrollments. Funds that remain unmatched as of December 1 must be reallocated to state universities and community colleges that have remaining unmatched private contributions for the program on the basis of full-time equivalent enrollments.

The bill provides that payment of the state matching grant is to be transmitted to the president of each participating institution or his or her representative in advance of the student registration period.

Each participating state university and community college must establish an application process, determine student eligibility for initial and renewal awards in conformance with the eligibility requirements each applicant must meet, identify the amount awarded to each recipient, and notify recipients of the amount of their awards.

In order to be eligible to receive a grant from this program, the bill requires an applicant to:

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[1] Section 1009.21(10), F.S.
[2] Most undocumented aliens, absent a change in federal law or a grant of amnesty, would not qualify for permanent residency.
[3] See Plyler v. Doe, 457 U.S 202, 102 S. Ct. 2382, 72 L.Ed.2d 786 (1982).
[4] See http://uscis.gov/graphics/services/tempbenefits/index.htm, U.S. Citizenship and Immigration Services, Temporary Visitors.

- Be a resident for tuition purposes pursuant to s. 1009.21, F.S.
- Be a first-generation college student. For the purposes of this program, a student is considered "first-generation" if neither of the student's parents, as defined in s. 1009.21(1), F.S., earned a college degree at the baccalaureate level or higher.
- Be accepted at a state university or community college.
- Be enrolled for a minimum of six credit hours per term as a degree-seeking undergraduate student.
- Have demonstrated financial need by completing the Free Application for Federal Student Aid.

The bill requires that the award amount be based on the student's need assessment after any scholarship or grant aid, including, but not limited to, a Pell Grant or a Bright Futures award, has been applied. No award may exceed the institution's estimated annual cost of attendance for comparable undergraduate students attending the institution.

Each participating institution must report the eligible students to whom grant moneys are dispersed each academic term to OSFA by the date they establish. Institutions are also required to certify the amount of funds disbursed to each student and remit undisbursed funds to OSFA by June 1 of each year.

The bill also requires an annual report by each participating institution to be submitted to the Executive Office of the Governor, the Speaker of the House of Representatives, and the President of the Senate. Each community college must also report to the State Board of Education and each state university must also report to the Board of Governors. The annual report must include eligibility requirements for recipients, the aggregate demographics of recipients, retention and graduation rates of recipients, and a delineation of funds awarded to recipients.

The bill requires that the program be implemented as specifically funded.

Residency

The bill also revises provisions relating to the determination of a student's residency status for tuition purposes by extending residency status to any student, other than a nonimmigrant alien within the meaning of federal law, who meets the following criteria:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.
- Has attended a Florida high school for at least 3 consecutive years during such time.
- Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

The effective date of the bill is July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Creates s. 1009.701, F.S., which creates the First Generation Matching Grant Program to provide financial aid to undergraduate students with financial need whose parents have not earned a baccalaureate degree; providing for appropriation, allocation, and distribution of funds; providing student eligibility requirements; providing the basis for the amount of awards; and providing duties of institutions participating in the program

Section 2: Amends s. 1009.21, F.S., providing an additional category within which students may be classified as residents for tuition purposes.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Please see FISCAL COMMENTS.

2. Expenditures:

   Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires matching funds; therefore, there will be an impact on the private sector as universities and community colleges will need donations to be made for this program in order to receive any funding from the state.

The bill provides for grants to be awarded to eligible applicants to cover the annual cost of attendance at a state university or community college. Recipients of this grant have the ability to attend a state university or community college where previously this may not have been possible.

In addition, students who, in the past, may have been unable to afford a post-secondary education will have expanded educational opportunities if they fall into the new category within which students may be classified as residents for tuition purposes.

D. FISCAL COMMENTS:

First Generation Matching Grant Program
The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 79) provides an appropriation of $14,000,000 for the program.

Residency
Expanding the categories of students who may be classified as residents for tuition purposes may increase the number of students who enroll in state universities and community colleges because of the reduced cost to such students; therefore, these institutions may experience an increase in tuition and fee revenues. However, to the extent a student may have attended a state university or community college even if classified as an out-of-state student; an institution could experience a loss in tuition and fee revenues. Expanding the categories of students who may be classified as residents for tuition purposes could also result in the state funding more of the cost to provide instruction to such students.

The fiscal impact of the additional residency for tuition purposes category on funding required or award amount for programs such as Bright Futures, FSAG, and FRAG is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

   The U.S. Constitution provides the Federal Government with preeminent power over the regulation of aliens within the U.S.[5] Any state action that imposes discriminatory burdens upon the entrance or residence of aliens lawfully admitted into the U.S. conflicts with the Supremacy Clause of the U.S. Constitution.[6] The bill specifically excludes certain nonimmigrant aliens from meeting eligibility requirements for establishing residency for tuition purposes. In Toll v. Moreno,[7] a Maryland statute was struck down on Supremacy Clause concerns when the law categorically prohibited G-4 nonimmigrant aliens from acquiring in-state status for tuition purposes. G-4 nonimmigrant visa holders are not required to have intent to return to their country of residence. Unlike the Maryland law, the bill does not categorically prohibit a nonimmigrant alien from qualifying for residency; it provides only that a nonimmigrant may not qualify under the specific criteria outlined in the bill. There still remains a concern that the bill may be challenged because of the limitation on the ability of lawfully admitted nonimmigrant aliens to obtain in-state tuition status.

   The bill authorizes any student to qualify for residency for tuition purposes if the student meets specified criteria. Accordingly, 8 U.S.C. s. 1623, which bars any alien who is unlawfully present in the United States from receiving any post-secondary education benefit on the basis of residence in the state unless a U.S. citizen or national is eligible for such benefit in the same amount, duration, and scope, would not be applicable.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   History of Similar Legislation in other States and the Federal Government
   Nine other states have a similar law that provides students, who meet certain criteria, with an in-state tuition classification. These states are: California, Texas, New York, Utah, Washington, Illinois, Oklahoma, Kansas, and New Mexico. The laws differ slightly between the states, as some statutes offer state financial aid benefits along with the tuition classification, while other statutes are purely for tuition purposes. Currently, federal law prohibits illegal immigrant students from receiving federal loans and grants; work-study jobs are also prohibited.

   After the Kansas legislation was signed into law in May 2004, a lawsuit was filed in the United States District Court of Kansas[8] charging that the new law violated the U.S. Constitution's Equal Protection clause of the 14th Amendment[9] and 1996 immigration laws.[10] The lawsuit, the first of its kind, argued that the Kansas statute violated the federal law that prohibits states from giving public benefits to immigrants who are in the country illegally and was discriminatory to out-of-state students who pay a higher tuition rate. The plaintiffs were all students from out of state attending Kansas universities claiming that they had been denied the same in-state tuition benefits afforded to illegal immigrants. On July 5, 2005, the Court held that the students lacked standing under both the federal statute prohibiting states from offering in-state tuition to illegal aliens and the Equal Protection Clause.[11]

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[5] See Takahaski v. Fish & Game Commission, 334 U.S. 410, 418-420, 68 S.Ct. 1138, 1142-1143, 92 L.Ed. 1478 (1948).
[6] *Id.*
[7] Toll v. Moreno, 458 U.S. 1, 17, 102 S.Ct. 2977, 2986, 73 L.Ed.2d 563 (1982).
[8] *Day v. Sebelius*, 376 F. Supp.2d 1022 (D. Kan. 2005).
[9] U.S. Const. amend. XIV, § 1.
[10] 8 U.S.C. 1621 and 8 U.S.C. 1623
[11] *Day v. Sebelius,* 376 F. Supp.2d 1022, 1040 (D. Kan. 2005).

A lawsuit was filed in California in December 2005, challenging 2001 state legislation that provides students, who meet certain criteria, with an in-state tuition classification. A group of out-of-state students and parents filed the class-action lawsuit against California's public university and community college systems.

A proposal in the U.S. Congress may also affect states that provide in-state tuition without regard to immigration status. The Development, Relief, and Education for Alien Minors (DREAM) Act, was first introduced in 2003 and again introduced in 2004; however, Congress recessed without taking action on the Act. In November 2005, the DREAM Act was introduced as S. 2075, giving new life to the legislation.

The DREAM Act would enact two major changes in current law: eliminate the federal provision that discourages states from providing in-state tuition without regard to immigration status and permit some immigrant students who have grown up in the U.S. to apply for legal status.[12] If passed it would provide illegal immigrants in the U.S. the ability to sustain legal status if they graduated from high school, attended at least two years of college or spent two years in the military, and stayed out of trouble. Those students who live in the U.S for at least five years would also be eligible for federal financial aid.[13] The DREAM Act would permit qualified students to become temporary legal residents, putting them on a path to permanent legal status.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Colleges and Universities Committee adopted amendments to HB 795. The bill was reported favorably with a Committee Substitute (CS). The CS differs from the original bill in the following ways:

- Extends the First Generation Matching Grant Program to include community colleges.
- Provides for allocation of funds by the Office of Student Financial Aid instead of the Board of Governors due to the addition of community colleges.
- Requires a 50-50 split in allocated funds between the 28 community colleges and 11 state universities. Within each 50-percent allocation a proportionate allocation is reserved for each state university and community college on the basis of full-time equivalent enrollments.
- Provides for any unmatched funds as of December 1 to be reallocated to state universities and community colleges that have remaining unmatched funds.
- Removes duplicative Pell Grant eligibility requirement.
- Clarifies that any award from the program will be issued after other aid has been applied.
- Requires participating institutions to fulfill certain reporting requirements.

The CS also revises provisions relating to the determination of a student's residency status for tuition purposes by extending residency status to any student, other than a nonimmigrant alien within the meaning of federal law, who meets the following criteria:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.
- Has attended a Florida high school for at least 3 consecutive years during such time.
- Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

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[12] National Immigration Law Center, *Immigrants' Rights Update: Immigrant Student Adjustment and Access to Higher Education*, Vol. 17, No. 5, September 4, 2003.

[13] Matthew Hansen, *Tuition relief for illegal immigrants?*, Lincoln Journal Star, January 19, 2005.

CHAMBER ACTION

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1 The Colleges & Universities Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to student financial assistance; creating
7 s. 1009.701, F.S.; creating the First Generation Matching
8 Grant Program to provide financial aid to undergraduate
9 students with financial need whose parents have not earned
10 a baccalaureate degree; providing for appropriation,
11 allocation, and distribution of funds; providing student
12 eligibility requirements; providing the basis for the
13 amount of awards; providing duties of institutions
14 participating in the program; amending s. 1009.21, F.S.;
15 providing an additional category within which students may
16 be classified as residents for tuition purposes; providing
17 an effective date.
18
19 Be It Enacted by the Legislature of the State of Florida:
20
21 Section 1. Section 1009.701, Florida Statutes, is created
22 to read:
23 1009.701 First Generation Matching Grant Program.--

24 (1) The First Generation Matching Grant Program is created
25 to enable each state university and community college to provide
26 donors with a matching grant incentive for contributions that
27 will create grant-based student financial aid for undergraduate
28 students who demonstrate financial need and whose parents, as
29 defined in s. 1009.21(1), have not earned a baccalaureate
30 degree.
31 (2) Funds appropriated by the Legislature for the program
32 shall be allocated by the Office of Student Financial Assistance
33 to match private contributions on a dollar-for-dollar basis.
34 Contributions made to a state university or community college
35 and pledged for the purposes of this section are eligible for
36 state matching funds appropriated for this program and are not
37 eligible for any other state matching grant program. Pledged
38 contributions are not eligible for matching prior to the actual
39 collection of the total funds. The Office of Student Financial
40 Assistance shall reserve 50 percent of the total appropriated
41 funds for state universities and the remaining 50 percent for
42 community colleges. Within each 50-percent portion, the Office
43 of Student Financial Assistance shall reserve a proportionate
44 allocation for each state university and community college on
45 the basis of full-time equivalent enrollments. Funds that remain
46 unmatched as of December 1 shall be reallocated to state
47 universities and community colleges that have remaining
48 unmatched private contributions for the program on the basis of
49 full-time equivalent enrollments.
50 (3) Payment of the state matching grant shall be
51 transmitted to the president of each participating institution

52 or his or her representative in advance of the student
53 registration period.
54 (4) Each participating state university and community
55 college shall establish an application process, determine
56 student eligibility for initial and renewal awards in
57 conformance with subsection (5), identify the amount awarded to
58 each recipient, and notify recipients of the amount of their
59 awards.
60 (5) In order to be eligible to receive a grant pursuant to
61 this section, an applicant shall:
62 (a) Be a resident for tuition purposes pursuant to s.
63 1009.21.
64 (b) Be a first generation college student. For the
65 purposes of this section, a student is considered "first
66 generation" if neither of the student's parents, as defined in
67 s. 1009.21(1), earned a college degree at the baccalaureate
68 level or higher.
69 (c) Be accepted at a state university or community
70 college.
71 (d) Be enrolled for a minimum of 6 credit hours per term
72 as a degree-seeking undergraduate student.
73 (e) Have demonstrated financial need by completing the
74 Free Application for Federal Student Aid.
75 (6) The award amount shall be based on the student's need
76 assessment after any scholarship or grant aid, including, but
77 not limited to, a Pell Grant or a Florida Bright Futures
78 Scholarship Program award, has been applied. No award may exceed

79 the institution's estimated annual cost of attendance for
80 comparable undergraduate students attending the institution.
81 (7) Each participating institution shall report to the
82 Office of Student Financial Assistance, by the date established
83 by the office, the eligible students to whom grant moneys are
84 disbursed each academic term. Institutions shall certify to the
85 Office of Student Financial Assistance the amount of funds
86 disbursed to each student and shall remit to the office any
87 undisbursed advances by June 1 of each year.
88 (8) No later than July 1 of each year, each participating
89 institution shall report to the Executive Office of the
90 Governor, the Speaker of the House of Representatives, and the
91 President of the Senate, each community college shall report to
92 the State Board of Education, and each state university shall
93 report to the Board of Governors regarding eligibility
94 requirements for recipients, the aggregate demographics of
95 recipients, retention and graduation rates of recipients, and a
96 delineation of funds awarded to recipients.
97 (9) This section shall be implemented only as specifically
98 funded.
99 Section 2. Paragraph (l) is added to subsection (10) of
100 section 1009.21, Florida Statutes, to read:
101 1009.21 Determination of resident status for tuition
102 purposes.--Students shall be classified as residents or
103 nonresidents for the purpose of assessing tuition in community
104 colleges and state universities.
105 (10) The following persons shall be classified as
106 residents for tuition purposes:

107 (1) A student, other than a nonimmigrant alien within the
108 meaning of 8 U.S.C. s. 1001(a)(15), who meets the following
109 criteria:
110 1. Has resided in Florida with a parent for at least 3
111 consecutive years immediately preceding the date the student
112 received a high school diploma or its equivalent.
113 2. Has attended a Florida high school for at least 3
114 consecutive school years during such time.
115 3. Has filed an affidavit with the institution of higher
116 education stating that the student has filed an application to
117 legalize his or her immigration status or will file such
118 application as soon as he or she is eligible to do so.
119 Section 3. This act shall take effect July 1, 2006.

HB 801 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 801 CS Florida Ready to Work Certification Program
SPONSOR(S): Patterson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Community Colleges & Workforce Committee	7 Y, 0 N, w/CS	Thomas	Ashworth
2) Education Appropriations Committee		Hammock	Hamon K.W.H.
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

The bill creates the Florida Ready to Work Certification Program which will enhance Florida students' workplace skills to better prepare them for successful entry-level employment in specific occupations.

Florida Ready to Work Certification Programs shall be composed of:

- A comprehensive identification of workplace skills for each occupation identified for inclusion in the program by the Agency for Workforce Innovation.
- A preinstructional assessment that delineates the student's mastery level on the specific workplace skills identified for that occupation.
- A targeted instructional program limited to those identified workplace skills in which the student is not proficient. Instruction may be web based and must meet specific needs of local employers.
- A certificate and portfolio awarded to students upon successful completion of the instruction.

Florida Ready to Work Certification Programs may be conducted at public high schools, community colleges, technical centers, one-stop career centers, vocational rehabilitation centers and Department of Juvenile Justice educational facilities.

The bill requires the Department of Education (DOE) to establish institutional readiness criteria for the implementation of the Florida Ready to Work Certification Program.

The bill provides rulemaking authority to the State Board of Education, in consultation with the Agency for Workforce Innovation, for the implementation of the Florida Ready to Work Certification Program.

The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 132A) provides $15,000,000 for the program for the Department of Education. No funds have been appropriated for the Agency for Workforce Innovation.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – The bill provides students graduating from high school the opportunity to be workforce ready.

Provide limited government – The bill provides rulemaking authority to the State Board of Education and the Agency for Workforce Innovation for the implementation of the Florida Ready to Work Certification Program.

Empower families – The bill provides the opportunity for students who complete the Florida Ready to Work Certification Program to be able to obtain and sustain a job and realize economic self-sufficiency.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

According to a new RAND report, *The 21st Century at Work*, rapid technological change and increased international competition place the spotlight on the skill and preparation of the workforce, particularly the ability to adapt to changing technologies and shifting product demand. The growing importance of knowledge-based work favors workers with the skills of abstract reasoning, problem solving, communication and collaboration. Knowledge workers will need high-level skills for managing, interpreting, validating, transforming, communicating and acting on information.[1]

Career education (a term often interchangeably used for vocational education, workforce education, or technical education) is critically important to Florida's students and to Florida's economic development. A significant percentage of Florida's students currently leave high school without adequate preparation to enter a career or continue into a technical center, community college or university program. Of every ten 9th graders, three students drop out and three of the remaining seven do not purse additional education; six students (60%) do not go to college. Only four out of the 10 (40%) attend college.[2] Reformed career education programs in the high school years would not only benefit the six students who do not attend college, but has the potential of benefiting all students.

Career Education Certification

Currently, section 1003.431, F.S., provides that a career education certification may be placed on a student's high school diploma. The certification is designed to indicate that a student is prepared for both postsecondary education without the need for remediation and that the student has marketable employment skills. The State Board of Education was given the authority to adopt rules for a standard format for the career education certification. Currently, the SBE has not adopted rules for the career education certification and no school districts offer this for high school diplomas.

Work Readiness Credential Models

National Work Readiness Credential Project

The U.S. Chamber's Center for Workforce Preparation (CWP) and the Equipped for the Future Work Readiness Credential are in the process of developing a new program which will provide an assessment-based certification that affirms that entry-level job seekers have communication,

[1] Education Commission of the States, January 2005. *State Strategies for Redesigning High Schools and Promoting High School to College Transitions,* p. 1.

[2] *Career and Professional Education: Preparing Florida's Students for the Knowledge Economy*, Council for Education Policy, Research and Improvement (CEPRI), September 2004

interpersonal, decision-making, and lifelong learning skills. This partnership is in response to business concerns about the difficulty in finding qualified applicants for entry-level work. National and state leaders in business, government, and labor have come together to build a national Work Readiness Credential (WRC) based on a business-defined standard of the critical skills needed by entry-level workers. Employers using the Work Readiness Credential will reduce recruitment cost, improve productivity, minimize turnover and lower on-the-job training costs by being able to confidently hire entry-level workers. The credential assessment and delivery system is currently being field tested in 6 partner states. Florida is one of those states. The program is expected to be available for broad use by chambers, businesses, one-stop centers, and education and training providers in June 2006.

WorkKeys

WorkKeys is a job skills assessment system measuring "real world" skills that employers believe are critical to job success. The abilities to learn, listen, communicate, work in teams and solve problems are important assets for any worker, regardless of career choice. WorkKeys assessments measures these abilities in three key areas:

- communication – (business writing, listening, reading for information, writing);
- problem solving – (applied mathematics, applied technology, locating information, observation); and
- interpersonal skills – (teamwork).

The WorkKeys job profiling component analyzes the skills needed for specific jobs and describes those needs to educators, students and job applicants. By comparing job profile information with an individual's scores on the WorkKeys tests, skill gaps can be identified and guide training decisions to improve the individual's WorkKeys scores. The certificates validate the WorkKeys skill levels an individual has achieved. Several states are developing WorkKeys readiness certificates to help individuals document their skills for potential employers.

Effect of Proposed Changes

HB 801 CS creates the Florida Ready to Work Certification Program which will enhance Florida students' workplace skills to better prepare them for successful entry-level employment in specific occupations.

Florida Ready to Work Certification Programs shall be composed of:

- A comprehensive identification of workplace skills for each occupation identified for inclusion in the program by the Agency for Workforce Innovation.
- A preinstructional assessment that delineates the student's mastery level on the specific workplace skills identified for that occupation.
- A targeted instructional program limited to those identified workplace skills in which the student is not proficient. Instruction may be web-based and must meet specific needs of local employers.
- A certificate and portfolio awarded to students upon successful completion of the instruction.

Florida Ready to Work Certification Programs may be conducted at public high schools, community colleges, technical centers, one-stop career centers, vocational rehabilitation centers and Department of Juvenile Justice educational facilities.

HB 801 CS requires the Department of Education (DOE) to establish institutional readiness criteria for the implementation of the Florida Ready to Work Certification Program.

HB 801 CS provides rulemaking authority to the State Board of Education, in consultation with the Agency for Workforce Innovation, for the implementation of the Florida Ready to Work Certification Program.

C. SECTION DIRECTORY:

Section 1: Creates s. 1004.99, F.S., The Florida Ready to Work Certification Program; providing students with workforce skills assessment, instruction related to an occupation, and certification based on demonstration of such skills; providing for institutional eligibility; providing program components; authorizing rulemaking.

Section 2: Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See FISCAL COMMENTS

2. Expenditures: See FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures: None

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 132A) provides $15,000,000 for the program for the Department of Education. No funds have been appropriated for the Agency for Workforce Innovation.

The implementation of this program would cause staff workload for the Department of Education and Agency for Workforce Innovation for assessments, curriculum, instruction, business outreach and profiling. The Department of Education has requested five (5) positions: one (1) supervisor, three (3) program specialists, and one (1) administrative support person.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other: None

B. RULE-MAKING AUTHORITY:

The State Board of Education, in consultation with the Agency for Workforce Innovation are given rulemaking authority for the implementation of the Florida Ready to Work Certification Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Community College and Workforce Committee adopted a strike-all amendment. The strike-all amendment:

- Removed all fiscal appropriations language.
- Clarified language creating the program, the purpose of the program, and the components of the program.
- Clarified agency roles for rulemaking authority.

CHAMBER ACTION

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1 The Community Colleges & Workforce Committee recommends the
2 following:
3
4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6 A bill to be entitled
7 An act relating to the Florida Ready to Work Certification
8 Program; creating s. 1004.99, F.S.; creating the program
9 to enhance student workplace skills; providing for
10 implementation; providing program components; authorizing
11 rulemaking; providing an effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. Section 1004.99, Florida Statutes, is created
16 to read:
17 1004.99 Florida Ready to Work Certification Program.--
18 (1) There is created the Florida Ready to Work
19 Certification Program to enhance the workplace skills of
20 Florida's students to better prepare them for successful entry-
21 level employment in specific occupations.
22 (2) The Florida Ready to Work Certification Program may be
23 conducted in public high schools, community colleges, technical

24 centers, one-stop career centers, vocational rehabilitation
25 centers, and Department of Juvenile Justice educational
26 facilities. The Department of Education shall establish
27 institutional readiness criteria for program implementation.
28 (3) The Florida Ready to Work Certification Program shall
29 be composed of:
30 (a) A comprehensive identification of workplace skills for
31 each occupation identified for inclusion in the program by the
32 Agency for Workforce Innovation.
33 (b) A preinstructional assessment that delineates the
34 student's mastery level on the specific workplace skills
35 identified for that occupation.
36 (c) A targeted instructional program limited to those
37 identified workplace skills in which the student is not
38 proficient as measured by the preinstructional assessment.
39 Instruction must utilize a web-based program and be customized
40 to meet identified specific needs of local employers.
41 (d) A certificate and portfolio awarded to students upon
42 successful completion of the instruction. Each portfolio must
43 delineate the skills demonstrated by the student as evidence of
44 the student's preparation for employment.
45 (4) The State Board of Education, in consultation with the
46 Agency for Workforce Innovation, may adopt rules pursuant to ss.
47 120.536(1) and 120.54 to implement the provisions of this
48 section.
49 Section 2. This act shall take effect upon becoming a law.

HB 873 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 873 CS Building Designations
SPONSOR(S): Brandenburg
TIED BILLS: **IDEN./SIM. BILLS:** SB 1636

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	10 Y, 0 N, w/CS	Davis	Tilton
2) Education Appropriations Committee		Hamon K.W.H.	Hamon K.W.H.
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

Current law does not permit a state building, road, bridge, park, recreation complex, or similar facility to be named after a living person unless the name designation is approved by law. Pursuant to this requirement, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

The bill designates the new alumni center at Florida Atlantic University as the "Marleen and Harold Forkas Alumni Center" and the Florida Agricultural and Mechanical University-Florida State University College of Engineering building as the "Herbert F. Morgan Building." Florida Atlantic University, Florida Agricultural and Mechanical University, and Florida State University are directed to erect suitable markers to reflect these designations.

The bill provides an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Section 267.062, F.S., provides that no state building, road, bridge, park, recreational complex, or similar facility can be named after a living person unless approved by law. Therefore, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

A section-by-section analysis of the bill follows. The biographical information was provided by the sponsors of the proposed designations.

Section 1: The bill designates the new alumni center at Florida Atlantic University as the "Marleen and Harold Forkas Alumni Center" and directs Florida Atlantic University to erect suitable markers.

Marleen Forkas was the first woman to graduate from the Fashion Institute of Technology's Management Engineering Division. She went on to build a 40-year career as a designer and manufacturer for leading fashion houses.

Harold Forkas began his career working in the office supply business before moving on to sales and management for the Coca-Cola Company. He later had the opportunity to explore entrepreneurship as a Midas Muffler franchisee; by 1988, he owned eight Midas Muffler dealerships.

Marleen and Harold Forkas have a strong philanthropic background. They are involved in several charitable organizations including the Boca Raton Community Hospital Foundation and the Boca Raton Museum of Art. Their involvement with Florida Atlantic University began in 1997 when the couple began attending performances at Florida Atlantic University's University Center. They became members of the University's Inner Circle of Football Founders, and were behind the university's efforts to establish a football team.

More recently, the couple has turned their philanthropic interests to the efforts of the Florida Atlantic University National Alumni Association, donating $1 million for the construction of a permanent facility to house the association.

Section 2: The bill designates the Florida Agricultural and Mechanical University-Florida State University College of Engineering Building as the "Herbert F. Morgan Building" and directs Florida Agricultural and Mechanical University and Florida State University to erect suitable markers.

Herbert F. Morgan earned a business degree from Florida State University in 1966. While there, he received the James D. Westcott Distinguished Service Medal. In 2003, Mr. Morgan received an honorary doctoral degree from Florida State University. Florida State University and Tallahassee Community College have established a joint scholarship in Mr. Morgan's name.

Mr. Morgan was elected to the Florida House of Representatives in 1974 and served until 1986. As a state representative, he served for eight years as Chairman of the Appropriation Committee and also served as Chair of the Rules and Calendar Committee. Mr. Morgan was a key player in the revision of Florida's Budgeting system. He was dedicated to improving Florida's educational system and improving care for disabled and mentally ill Floridians. Mr. Morgan is a two-time recipient of the Allen Morris Award for the most effective member of the House of Representatives.

Mr. Morgan was instrumental in the creation and funding of the Florida Agricultural and Mechanical University-Florida State University Engineering Program.

Section 3: This bill will take effect upon becoming law.

C. SECTION DIRECTORY:

This bill does not create, repeal, or amend any statutory sections. Please refer to EFFECT OF PROPOSED CHANGES for a section-by-section analysis of the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

   Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

There will be an insignificant cost associated with the universities erecting suitable markers for the name designation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

   This bill does not appear to raise constitutional issues.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the colleges and Universities Committee adopted an amendment to HB 873. The bill was reported favorable with a Committee Subsititute (CS). The CS adds the designation of Florida Agricultural and Mechanical University-Florida State University College of Engineering building as the "Herbert F. Morgan Building."

CHAMBER ACTION

The Colleges & Universities Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to building designations; designating the new alumni center at Florida Atlantic University as the Marleen and Harold Forkas Alumni Center; designating the Florida Agricultural and Mechanical University-Florida State University College of Engineering Building as the Herbert F. Morgan Building; directing the erection of suitable markers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Marleen and Harold Forkas Alumni Center designated; Florida Atlantic University to erect suitable markers.--

(1) The new alumni center at Florida Atlantic University is designated as the "Marleen and Harold Forkas Alumni Center."

(2) Florida Atlantic University is directed to erect suitable markers designating the Marleen and Harold Forkas Alumni Center as described in subsection (1).

24 Section 2. Herbert F. Morgan Building designated; Florida
25 Agricultural and Mechanical University and Florida State
26 University to erect suitable markers.--
27 (1) The Florida Agricultural and Mechanical University-
28 Florida State University College of Engineering Building in
29 Tallahassee is designated as the "Herbert F. Morgan Building."
30 (2) Florida Agricultural and Mechanical University and
31 Florida State University are directed to erect suitable markers
32 designating the Herbert F. Morgan Building as described in
33 subsection (1).
34 Section 3. This act shall take effect upon becoming a law.

HB 899

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 899 Regional Consortium Service Organizations
SPONSOR(S): Richardson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	9 Y, 0 N	Hunker	Mizereck
2) Education Appropriations Committee		Eggers ME	Hamon K.W.H
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

House Bill 899 amends s. 1001.451, F.S., regarding regional consortium service organizations (RCSOs).

The bill requires that the boards of directors of RCSOs determine which services will be purchased with the funds received from the Department of Education (DOE).

The bill authorizes the boards of directors of RCSOs to replace individual school district bid arrangements with RCSO purchasing and bidding programs.

The bill authorizes boards of directors of RCSOs to establish educational foundations governed by educational foundation boards of directors. RCSOs may permit educational foundations to use the property, facilities and personnel services of an RCSO to raise funds for the district members. The bill requires financial audits for certain educational foundations.

The bill has an indeterminate fiscal impact. See FISCAL ANALYSIS.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill permits regional consortium services organizations to provide bidding, purchasing and fundraising operations to multiple school districts, thus reducing duplicative effort which would occur if each district had to provide these services for themselves.

B. EFFECT OF PROPOSED CHANGES:

Currently, section 1001.451, F.S., authorizes the creation of regional consortium service organizations (RCSOs). RCSOs permit smaller school districts,[1] developmental research (laboratory) schools,[2] and the Florida School for the Deaf and the Blind to pool their resources to provide common programs and services such as teacher training, staff development, exceptional student education, federal grant procurement and coordination, data processing, health insurance, risk management insurance, purchasing, and planning and accountability.

There are currently three regional consortium service organizations in operation in Florida:

(1) The North Florida Education Consortium (NEFEC): Comprising Baker, Bradford, Columbia, Dixie, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Nassau, Putnam, Suwannee, Union, P.K. Younge DRS, and the Florida School For the Deaf and the Blind[3]

(2) Panhandle Area Education Consortium (PAEC): Comprising Calhoun, FSU Schools, Inc., Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Liberty, Madison, Taylor, Wakulla, Walton, and Washington.[4]

(3) Heartland Educational Consortium (HEC): Comprising De Soto, Glades, Hardee, Hendry, Highlands, and Okeechobee.[5]

Currently, the DOE provides these organizations with incentive grants of $50,000 per school district to be used for the delivery of services within those districts. The bill authorizes the boards of directors of the RCSOs to determine which services the funds will be used for.

The bill grants authority to the boards of directors of the RCSOs to establish purchasing and bidding programs, including construction and construction management arrangements, through their school district fiscal agent. An individual district school board could choose to use contracts in place through RCSO bids by submitting a letter of intent to participate and by reflecting the intent to participate in official district school board minutes.

The bill also clarifies that an RCSO board of directors may elect to establish an educational foundation independent of the organization's school district of record. An educational foundation must be governed by an educational foundation board of directors, must be a Florida not-for-profit corporation under chapter 617, F.S., and must be approved by the Department of State. This bill authorizes RCSOs to permit approved educational foundations to use RCSO property, facilities, and personnel services to raise funds for school district members of the RCSO. The bill also provides that each approved educational foundation with more than $100,000 in expenditures or expenses must provide for an annual financial audit of its accounts and records by an independent certified public accountant.

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1 Smaller school districts are those that have 20,000 or fewer unweighted full-time equivalent students

2 *See* s. 1002.32, Fla. Stat.

3 The North East Florida Educational Consortium, http://www.nefec.org (last visited Mar. 16, 2006).

4 Panhandle Area Educational Consortium, http://www.paec.org (last visited Mar. 16, 2006).

5 Heartland Educational Consortium, http://www.flalearningalliance.org (last visited Mar. 16, 2006).

The audit report must be submitted to the boards of directors of both the educational foundation and the RCSO within 9 months after the end of the fiscal year.

The bill provides that the act will take effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 1001.451, F.S.; requiring the board of directors of a regional consortium service organization to determine use of funds; authorizing establishment of purchasing and bidding programs; authorizing establishment of an educational foundation board of directors and providing for use of property, facilities, and personnel services; requiring audits.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires an RCSO educational foundation with more than $100,000 in expenditures or expenses to hire an independent certified public accountant to prepare an audit report. Although the fiscal impact is indeterminate, it is expected to be small.

D. FISCAL COMMENTS:

The bill may reduce administrative costs of school districts operating their own bidding and purchasing processes and fundraising, if the school district obtains these services from a RCSO. To the extent a RCSO expands bidding and purchasing services for school districts, additional costs may be incurred. Although potential school district savings and RCSO increased costs are indeterminate, they are expected to be small.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to regional consortium service
3 organizations; amending s. 1001.451, F.S.; requiring the
4 determination of services and use of funds to be
5 established by the board of directors of a regional
6 consortium service organization; authorizing establishment
7 of purchasing and bidding programs in lieu of individual
8 school district bid arrangements; authorizing
9 establishment of an educational foundation governed by an
10 educational foundation board of directors; providing for
11 use of property, facilities, and personnel services by an
12 educational foundation; requiring audits; providing an
13 effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Section 1001.451, Florida Statutes, is amended
18 to read:
19 1001.451 Regional consortium service organizations.--In
20 order to provide a full range of programs to larger numbers of
21 students, minimize duplication of services, and encourage the
22 development of new programs and services:
23 (1) School districts with 20,000 or fewer unweighted full-
24 time equivalent students, developmental research (laboratory)
25 schools established pursuant to s. 1002.32, and the Florida
26 School for the Deaf and the Blind may enter into cooperative
27 agreements to form a regional consortium service organization.
28 Each regional consortium service organization shall provide, at

29 a minimum, three of the following services: exceptional student
30 education; teacher education centers; environmental education;
31 federal grant procurement and coordination; data processing;
32 health insurance; risk management insurance; staff development;
33 purchasing; or planning and accountability.
34 (2)(a) Each regional consortium service organization that
35 consists of four or more school districts is eligible to
36 receive, through the Department of Education, an incentive grant
37 of $50,000 per school district and eligible member to be used
38 for the delivery of services within the participating school
39 districts. The determination of services and use of such funds
40 shall be established by the board of directors of the regional
41 consortium service organization.
42 (b) Application for incentive grants shall be made to the
43 Commissioner of Education by July 30 of each year for
44 distribution to qualifying regional consortium service
45 organizations by January 1 of the fiscal year.
46 (3) In order to economically provide programs and services
47 to participating school districts and members, a regional
48 consortium service organization may establish purchasing and
49 bidding programs, including construction and construction
50 management arrangements, in lieu of individual school district
51 bid arrangements. Participation in regional consortium service
52 organization bids shall be accomplished by action of an
53 individual district school board through a letter of intent to
54 participate and shall be reflected in official district school
55 board minutes.

56 (4) A regional consortium service organization board of
57 directors may elect to establish an educational foundation
58 independent of the regional consortium service organization's
59 school district of record to be governed by an educational
60 foundation board of directors. The educational foundation must
61 be a Florida not-for-profit corporation incorporated under the
62 provisions of chapter 617 and approved by the Department of
63 State. A regional consortium service organization board of
64 directors may permit the use of property, facilities, and
65 personnel services of the regional consortium service
66 organization by an approved educational foundation. An approved
67 educational foundation with more than $100,000 in expenditures
68 or expenses must provide for an annual financial audit of its
69 accounts and records to be conducted by an independent certified
70 public accountant. The annual audit report shall be submitted
71 within 9 months after the end of the fiscal year to the
72 educational foundation board of directors and the regional
73 consortium service organization board of directors.
74 Section 2. This act shall take effect July 1, 2006.

HB 987

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 987 Tax on Sales, Use, and Other Transactions
SPONSOR(S): Gottlieb
TIED BILLS: **IDEN./SIM. BILLS:** SB 1590

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
2) Fiscal Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Effective January 1, 2007, sales tax dealers entitled to a collection allowance pursuant to s. 212.12, F.S., may elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund. The election must be made with the timely filing of a return and cannot be rescinded once made. If a dealer making the election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund shall be the collection allowance remaining after resolution of liability for all tax, interest, and penalty due.

The maximum amount of collection allowance is $30 per month for each sales dealer. To the degree that sales tax dealers donate their collection allowance to the Educational Enhancement Trust Fund, such trust fund will realize an increase in revenues to the benefit of public education. The increase to the trust fund can not be determined.

The bill appropriates $36,465 from the General Revenue Fund to the Department of Revenue for the purpose of administering the program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility—The bill authorizes sales tax dealers entitled to a collection allowance to forgo the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 212, F.S., levies a 6 percent sales and use tax on most sales of tangible personal property and a limited number of services. Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions "subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions" by chapter 212, F.S. and on communications services by chapter 202, F.S. Section 212.0305, F.S., authorizes the levy of the local option Convention Development Tax at the rate of 3 percent in Miami-Dade County, and at the rate of 2 percent in Duval County and Volusia County.

Section 212.12, F.S., provides sales and use tax dealers a collection allowance of 2.5 percent of the amount of the tax due for the purpose of compensating dealers for the keeping of prescribed records, filing timely returns, and proper accounting and remitting of taxes. No collection allowance is allowed on tax collected and remitted in excess of $1,200 per month, resulting in a maximum collection allowance of $30 per month for the majority of dealers. The dealer's collection allowance does not apply to the rental car surcharge[1], the waste tire fee[2], the lead-acid battery fee[3], or the motor vehicle warranty fee[4].

Article X, Sec. 15, of the State Constitution, provides for a state operated lottery. Chapter 24, F.S., provides the statutory authority for the state lottery. Section 24.121(2), F.S., provides that variable percentages of the gross revenue, as determined by the Department of the Lottery, from the sale of on-line and instant lottery tickets and other earned revenue shall be deposited into the Educational Enhancement Trust Fund to be administered by the Department of Education. Funds from the Educational Enhancement Trust Fund shall be used to the benefit of public education as provided for in s. 24.121, F.S.

Effect of Proposed Changes

The bill amends s. 212.12(1), F.S., creating paragraph (c), providing that sales tax dealers entitled to a collection allowance pursuant to s. 212.12, F.S., may elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund. The election must be made with the timely filing of a return and cannot be rescinded once made. If a dealer making the election files a delinquent return, underpays the tax, or files an incomplete return, the amount deposited into the Educational Enhancement Trust Fund shall be the collection allowance remaining after resolution of liability for all tax, interest, and penalty due. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted resolutions stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that

[1] Section 212.0606, F.S.
[2] Section 403.718, F.S.
[3] Section 403.7185, F.S.
[4] Section 681.117, F.S.

teachers are trained in the use of that technology. Revenues collected in districts that do not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

The bill provides that the election to forego the collection allowance applies to all taxes, surtaxes, and any local option taxes administered under chapter 212, F.S., and remitted directly to the Department of Revenue. This election does not apply to any locally imposed and self-administered convention development tax[5], tourist development tax[6], or tourist impact tax[7] administered under chapter 212, F.S.

The bill provides that notwithstanding the provisions of chapter 120, F. S., to the contrary, the Department of Revenue may adopt rules to carry out the amendments made by this act to s. 212.12, F.S.

The bill appropriates the sum of $36,465 from the General Revenue Fund to the Department of Revenue for the purpose of administrating the amendments to s. 212.12, F.S., made by this act. The bill authorizes the Department of Revenue to retain all of the dealer collection allowance revenues directed to be transferred into the Educational Enhancement Trust Fund until the $36,465 General Revenue appropriation is recovered.

The bill requires that revenues from the dealer collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund and that the Department of Revenue shall provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

The bill provides that this act shall take effect January 1, 2007.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.12(1), F.S., creating paragraph (c), providing that sales tax dealers entitled to a collection allowance pursuant to s. 212.12, F.S., may elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund.

Section 2. Provides that notwithstanding the provisions of chapter 120, F. S., to the contrary, the Department of Revenue may adopt rules to carry out the amendments made by this act to s. 212.12, F.S.

Section 3. Appropriates the sum of $36,465 from the General Revenue Fund to the Department of Revenue for the purpose of administrating the amendments to s. 212.12, F.S., made by this act.

Section 4. Requires that revenues from the dealer collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund.

Section 5. Provides that this act shall take effect January 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

[5] Section 212.0305, F.S.
[6] Section 125.0104, F.S.
[7] Section 125.0108, F.S.

Sales and use tax dealers may elect to donate their collection allowance to the Educational Enhancement Trust Fund. By doing this, such dealers will forgo a maximum dealer collection allowance of $30 a month, which is deducted from the total of all taxes collected and remitted on Forms DR-15 and DR-15EZ, Sales and Use Tax Returns.

To the degree that sales tax dealers donate their collection allowance to the Educational Enhancement Trust Fund, such trust fund will realize an increase in revenues to the benefit of public education. The increase to the trust fund can not be determined.

2. Expenditures:

In order to administer the bill properly, the Department of Revenue (DOR) would be required to modify its sales and use tax returns forms (DR-15 and DR-15EZ in both hardcopy and electronic formats) to include a check box option directing the DOR to deposit the collection allowance into the Educational Enhancement Trust Fund. This will require computer programming of SAP to identify the amounts to be transferred to the trust fund and a Tax Information Publication (TIP) would need to be sent to all sales and use tax dealers to allow them sufficient time to make internal systems changes. The DOR estimates the cost of implementing this bill to be $112,920.

The bill appropriates $36,465 to the DOR to administer the program. The DOR estimates program implementation costs at $112,920, a difference of $76,455, which would have to be absorbed by DOR within existing resources. The bill specifies that the DOR shall retain all of the dealer collection allowances deposited in the Educational Enhancement Trust Fund until the $36,465 is recovered. If collection allowances for the program are equal to or greater than $36,465, there will be no fiscal impact to state funds, provided the DOR can absorb the $76,455 in unrecovered costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "FISCAL IMPACT ON STATE GOVERNMENT."

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is granted rule making authority to carry out the amendment to section 212.12, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.12, F.S.; authorizing a
4 dealer to elect to forego the collection allowance and
5 direct that collection allowance revenues be transferred
6 to the Educational Enhancement Trust Fund for distribution
7 to school districts as specified; providing exceptions;
8 providing for rulemaking by the Department of Revenue;
9 providing an appropriation; providing for costs recovery;
10 requiring the Department of Revenue to report collection
11 information to the Department of Education; providing an
12 effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Paragraph (c) is added to subsection (1) of
17 section 212.12, Florida Statutes, to read:
18 212.12 Dealer's credit for collecting tax; penalties for
19 noncompliance; powers of Department of Revenue in dealing with
20 delinquents; brackets applicable to taxable transactions;
21 records required.--
22 (1) Notwithstanding any other provision of law and for the
23 purpose of compensating persons granting licenses for and the
24 lessors of real and personal property taxed hereunder, for the
25 purpose of compensating dealers in tangible personal property,
26 for the purpose of compensating dealers providing communication
27 services and taxable services, for the purpose of compensating
28 owners of places where admissions are collected, and for the

29 purpose of compensating remitters of any taxes or fees reported
30 on the same documents utilized for the sales and use tax, as
31 compensation for the keeping of prescribed records, filing
32 timely tax returns, and the proper accounting and remitting of
33 taxes by them, such seller, person, lessor, dealer, owner, and
34 remitter (except dealers who make mail order sales) shall be
35 allowed 2.5 percent of the amount of the tax due and accounted
36 for and remitted to the department, in the form of a deduction
37 in submitting his or her report and paying the amount due by him
38 or her; the department shall allow such deduction of 2.5 percent
39 of the amount of the tax to the person paying the same for
40 remitting the tax and making of tax returns in the manner herein
41 provided, for paying the amount due to be paid by him or her,
42 and as further compensation to dealers in tangible personal
43 property for the keeping of prescribed records and for
44 collection of taxes and remitting the same. However, if the
45 amount of the tax due and remitted to the department for the
46 reporting period exceeds $1,200, no allowance shall be allowed
47 for all amounts in excess of $1,200. The executive director of
48 the department is authorized to negotiate a collection
49 allowance, pursuant to rules promulgated by the department, with
50 a dealer who makes mail order sales. The rules of the department
51 shall provide guidelines for establishing the collection
52 allowance based upon the dealer's estimated costs of collecting
53 the tax, the volume and value of the dealer's mail order sales
54 to purchasers in this state, and the administrative and legal
55 costs and likelihood of achieving collection of the tax absent
56 the cooperation of the dealer. However, in no event shall the

57 collection allowance negotiated by the executive director exceed
58 10 percent of the tax remitted for a reporting period.
59 (c)1. A dealer entitled to the collection allowance
60 provided in this section may elect to forego the collection
61 allowance and direct the department to transfer the amount of
62 the collection allowance into the Educational Enhancement Trust
63 Fund. Such an election must be made with the timely filing of a
64 return and may not be rescinded once made. If a dealer who makes
65 such an election files a delinquent return, underpays the tax,
66 or files an incomplete return, the amount transferred into the
67 Educational Enhancement Trust Fund shall be the amount of the
68 collection allowance remaining after resolution of liability for
69 all of the tax, interest, and penalty due on that return or
70 underpayment of tax. The Department of Education shall
71 distribute the remaining amount from the trust fund to the
72 school districts that have adopted a resolution stating that
73 those funds will be used to ensure that up-to-date technology is
74 purchased for the classrooms in the district and that teachers
75 are trained in the use of that technology. Revenues collected in
76 districts that do not adopt such a resolution shall be equally
77 distributed to districts that have adopted such resolutions.
78 2. This paragraph applies to all taxes, surtaxes, and any
79 local option taxes administered under this chapter and remitted
80 directly to the department. This paragraph does not apply to any
81 locally imposed and self-administered convention development
82 tax, tourist development tax, or tourist impact tax administered
83 under this chapter.

84 Section 2. Notwithstanding the provisions of chapter 120,
85 Florida Statutes, the Department of Revenue may adopt rules to
86 carry out the amendment made by this act to s. 212.12, Florida
87 Statutes.
88 Section 3. The sum of $36,465 is appropriated from the
89 General Revenue Fund to the Department of Revenue for the
90 purpose of administering the amendment to s. 212.12, Florida
91 Statutes, made by this act. The Department of Revenue shall
92 retain all of the revenues from dealer collection allowances
93 which are deposited into the Educational Enhancement Trust Fund
94 until the $36,465 appropriated from the General Revenue Fund has
95 been recovered.
96 Section 4. Revenues from the dealer collection allowances
97 shall be transferred quarterly to the Educational Enhancement
98 Trust Fund. The Department of Revenue shall provide to the
99 Department of Education quarterly information about such
100 revenues by county to which the collection allowance was
101 attributed.
102 Section 5. This act shall take effect January 1, 2007.

HB 1085

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1085 Hillsborough County School District
SPONSOR(S): Traviesa and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N	Nelson	Hamby
2) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1085 repeals an obsolete special law authorizing a 1998 referendum which provided for changing the membership of the Hillsborough County School Board to consist of seven members, with five members elected from single-member residence areas and two members elected from the county at large. Previously, the first five members were elected by a county-wide vote. The special law also contained transition language that phased in the new single member districts.

This bill provides that consistent with this referendum, and with the consent of the United States Department of Justice, Civil Rights Division, the governing body of the District School Board of Hillsborough County shall consist of seven members. The single-member residence areas are to be reapportioned by the district school board by resolution, in consultation with the county supervisor of elections, in the odd-numbered year immediately following each decennial census, and applied to the election held the following year. The bill also states that the election of district school board members shall be conducted in accordance with general law.

According to the Economic Impact Statement, this bill will have no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Constitutional Provision/School Districts

Section 4(a), Art. IX of the State Constitution, **School districts; school boards.**—provides:

Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors for appropriately staggered terms of four years, as provided by law.

Statutory Provisions/School Districts

Section 1001.36, F.S., **District school board member residence areas.**— provides:

(1) For the purpose of electing district school board members, each district shall be divided into at least five district school board member residence areas, which shall be numbered one to five, inclusive, and which shall, as nearly as practicable, be equal in population.

(a) For those school districts, which have seven district school board members, the district may be divided into five district school board member residence areas, with two district school board members elected at large, or the district may be divided into seven district school board member residence areas. In the latter case, the residence areas shall be numbered one to seven inclusive and shall be equal in population as nearly as practicable.

(b) For those school districts which have seven district school board members, the number of district school board member residence areas shall be determined by resolution passed by a majority vote of the district school board.

(2) Any district school board may make any change that it deems necessary in the boundaries of any district school board member residence area at any meeting of the district school board, provided that such changes shall be made only in odd-numbered years and that no change that would affect the residence qualifications of any incumbent member shall disqualify such incumbent member during the term for which he or she is elected.

(3) Such changes in boundaries shall be shown by resolutions spread upon the minutes of the district school board, shall be recorded in the office of the clerk of the circuit court, and shall be published at least once in a newspaper published in the district within 30 days after the adoption of the resolution, or, if there be no newspaper published in the district, shall be posted at the county courthouse door for 4 weeks thereafter. A certified copy of this resolution shall be transmitted to the Department of State.

Section 1001.361, F.S., **Election of board by districtwide vote.**—provides:

Notwithstanding any provision of local law or any county charter, the election of members of the district school board shall be by vote of the qualified electors of the entire district in a nonpartisan election as

provided in chapter 105. Each candidate for district school board member shall, at the time she or he qualifies, be a resident of the district school board member residence area from which the candidate seeks election. Each candidate who qualifies to have her or his name placed on the ballot shall be listed according to the district school board member residence area in which she or he resides. Each qualified elector of the district shall be entitled to vote for one candidate from each district school board member residence area. The candidate from each district school board member residence area who receives the highest number of votes in the general election shall be elected to the district school board.

Effect of Proposed Changes

In 1998, the Legislature passed a special act (ch. 98-465, L.O.F.) authorizing a referendum which provided for changing the membership of the Hillsborough County School Board to consist of seven members, with five members elected from single-member residence areas and two members elected from the county at large. Previously, the first five members were elected by a county-wide vote. The special act also contained transition language that phased in the new single member districts.

HB 1085 repeals this obsolete special law, and provides that consistent with the referendum held in Hillsborough County on November 3, 1998, and with the consent of the United States Department of Justice, Civil Rights Division,[1] dated January 24, 2000, the governing body of the District School Board of Hillsborough County shall consist of seven members, five of whom are elected from single-member residence areas (designated as Districts 1, 2, 3, 4 and 5) and two of whom are elected from the district at large. The single-member residence areas are to be reapportioned by the district school board by resolution, in consultation with the county supervisor of elections, in the odd-numbered year immediately following each decennial census in accordance with s.1001.36(2), F.S., and applied to the election held the following year. The bill also states that the election of members of the district school board shall be conducted in accordance with general law.

The bill takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Provides for membership of district school board, and reapportionment.

Section 2: Provides for election of district school board members in accordance with general law.

Section 3: Repeals ch. 98-465, L.O.F.

Section 4: Provides for effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? January 11, 2006.

WHERE? *The Tampa Tribune*, a daily newspaper published in Hillsborough County.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

[1] Pursuant to the Voting Rights Act of 1965, Hillsborough County is required to obtain a preclearance determination from the United States Department of Justice that the election changes do not have the purpose and/or effect of denying the right to vote on account of race, color or language minority group.

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

According to the Economic Impact Statement, this bill will have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

CONSTITUTIONAL PROHIBITED SUBJECTS/SCHOOL BOARD MEMBERS

Section 11, Art. III of the State Constitution lists a number of subjects which may not be addressed in a special act or general bill of local application. This list includes prohibitions on such bills which involve the:

> election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies. See, s. 11(1), Art. III of the State Constitution.

In Kane v. Robbins, 556 So.2d 1381 (Fla. 1989), the Florida Supreme Court ruled that this prohibition included local bills or general bills of local application pertaining to the election of school board members, and held invalid a special act providing for school board members in Martin County to be elected on a nonpartisan basis.

However, in School Board of Palm Beach County v. Winchester, 565 So.2d 1350 (Fla. 1990), the Court ruled that s. 11(a) 1, Art. III, of the State Constitution did not apply to charter counties. The Court upheld a special act providing for the nonpartisan election of Palm Beach County School Board members, even though the act was passed several years before Palm Beach County became a charter county.

Hillsborough County is a charter county.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the Hillsborough County School
3 District; providing for a seven-member district school
4 board, with five members elected from single-member
5 residence areas and two members elected from the district
6 at large; providing for reapportionment; providing that
7 elections shall be held in accordance with general law;
8 repealing chapter 98-465, Laws of Florida, relating to the
9 calling of a referendum to authorize such a district
10 school board, to conform; providing an effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. (1) Consistent with the referendum held in
15 Hillsborough County on November 3, 1998, and with the consent of
16 the United States Department of Justice, Civil Rights Division,
17 dated January 24, 2000, the governing body of the District
18 School Board of Hillsborough County shall consist of seven
19 members, five of whom shall be elected from single-member
20 residence areas and two of whom shall be elected from the
21 district at large, as provided in this act.
22 (2) Two seats shall be filled from the district at large,
23 and five seats shall be filled from single-member residence
24 areas that are designated District 1, District 2, District 3,
25 District 4, and District 5, respectively. The single-member
26 residence areas shall be reapportioned by the district school
27 board by resolution, in consultation with the county supervisor
28 of elections, in the odd-numbered year immediately following

29 each decennial census in accordance with section 1001.36(2),
30 Florida Statutes, and applied to the election held the following
31 year.
32 Section 2. The election of members of the district school
33 board shall be conducted in accordance with general law.
34 Section 3. Chapter 98-465, Laws of Florida, is repealed.
35 Section 4. This act shall take effect upon becoming a law.

HB 1171

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1171 Travel to Terrorist States
SPONSOR(S): Rivera and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Community Colleges & Workforce Committee	7 Y, 0 N	Thomas	Ashworth
2) Education Appropriations Committee		Hamon K.W.H.	Hamon K.W.H.
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

The bill requires that no funds in the Community College Program Fund, funds made available to community colleges outside the Community College Program Fund or state or non-state funds made available to state universities may be used to implement, organize, direct, coordinate, administer, or to support the implementation, organization, direction, coordination, or administration of activities related to or involving travel to a terrorist state.

The bill defines "terrorist state" as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism. Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. Cuba is the only designated country in the Western Hemisphere.

The bill prohibits travel expenses of public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state.

The bill has no fiscal impact. See FISCAL COMMENTS for historical use of funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Maintain public security – The bill prohibits the use of community college or university funds for public officer or employee travel to terrorist states.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Community College Program Fund
Section 1011.81, F.S., establishes the Community College Program Fund to provide funding for the basic operations of Florida's 28 community colleges.

State University Funding
Section 1011.90, F.S., establishes the primary funding for the basic operations for Florida's 11 state universities.

Per Diem and Travel Expenses
Section 112.061, F.S., governs the per diem and travel expenses of agencies' public officers, employees, and authorized persons.

"Agencies" are defined as any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or other separate unit of government created by law.[1] A variety of conditions are placed on the travel that may be paid and what amounts may be paid.

"Officer or public officer" is defined as an individual who in the performance of his or her official duties is vested by law with sovereign powers of government and who is either elected by the people, or commissioned by the Governor and has jurisdiction extending throughout the state, or any person lawfully serving instead of either of the forgoing two classes of individuals as initial designee or successor.[2]

"Employee or public employee" is defined as an individual, whether commissioned or not, other than an officer or authorized person, who is filling a regular or full-time authorized position and is responsible to an agency heard, who is called upon by an agency to contribute time and services as a consultant or adviser, who is a candidate for an executive of professional position.[3]

"Authorized person" is defined as a person other than a public officer or employee, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties.[4]

Terrorist States
The United States Department of State maintains a list of countries determined to have repeatedly provided support for acts of international terrorism. The countries are designated "terrorist states" under the requirements of three federal laws: section 6(j) of the Export Administration Act; section 40 of

[1] Section 112.061(2)(a).
[2] Section 112.061(2)(c).
[3] Section 112.061(2)(d).
[4] Section 112.061(2)(e).

the Arms Export Control Act; and section 620A of the Foreign Assistance Act. Sanctions resulting from designation under these acts include:

- A ban on arms-related exports and sales.
- Controls over exports of dual-use items, requiring a 30-day Congressional notification for goods or services that could significantly enhance the terrorist-list country's military capability or ability to support terrorism.
- Prohibitions on economic assistance.
- Imposition of miscellaneous financial and other restrictions, including:
  - Requiring the United States to oppose loans by the World Bank and other international financial institutions;
  - Lifting the diplomatic immunity to allow families of terrorist victims to file civil lawsuits in U.S. courts;
  - Denying companies and individuals tax credits for income earned in terrorist-list countries;
  - Denial of duty-free treatment for goods exported to the United States;
  - Authority to prohibit any U.S. person from engaging in a financial transaction with a terrorism-list government without a Treasury Department License;
  - Prohibition of Defense Department contracts above $100,000 with companies controlled by terrorist-list states.

Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. Cuba is the only designated country in the Western Hemisphere.

Charter Travel to Terrorist States

Title 31 of the Code of Federal Regulations, Chapter V, prescribes the ability and legal method to travel to and do business with countries such as Cuba, Iran, Libya, North Korea, Sudan and Syria. The ability to travel to these countries varies as do the requirements for and the ability to be authorized or licensed by the Office of Foreign Assets Control (OFAC) within the United States Department of the Treasury for such travel. Because of its proximity to Florida and the demographic makeup of the state, Cuba is likely the only listed terrorist state receiving regular charter air and vessel travelers from Florida.

Cultural and Educational Travel to Cuba

Under the Cuban Assets Control Regulations, OFAC may issue specific licenses to accredited United States academic institutions to authorize travel-related transactions related to certain educational activities by students or employees affiliated with the institution. Such licenses are valid for multiple trips over a two-year period. Specific licenses may also be issued (in some instances with extended validity permitting multiple trips) for educational activities that do not take place under the auspices of accredited United States academic institutions. Religious organizations are also eligible for multiple-trip two-year specific licenses authorizing travel-related transactions by their representatives in connection with a program of religious activities in Cuba.

Other travel categories for which specific licenses may be issued include, but are not limited to: free-lance journalism; activities of recognized human rights organizations and other humanitarian projects that directly benefit the Cuban people; certain public performances, clinics, workshops, exhibitions and athletic and other competitions; certain non-commercial activities of private foundations or research or educational institutions; and travel-related transactions involving informational materials, donations of food or exportations of goods licensed by the Department of Commerce.

Effect of Proposed Changes

HB 1171 prohibits funds in the Community College Program Fund and funds made available to community colleges outside the Community College Program Fund to be used to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of activities related to or involving travel to a terrorist state. The prohibition includes state or private funds made available to a community college. The bill also places the same prohibition on state or non-state funds made available to the state universities.

HB 1171 defines "terrorist state" as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism. Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. Cuba is the only designated country in the Western Hemisphere[5].

HB 1171 prohibits travel expenses of public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state.

C. SECTION DIRECTORY:

Section 1. Amends s. 1011.81, F.S., prohibiting the use of funds from the Community College Program Fund, or funds made available to community colleges from outside the fund, to implement, organize, direct, coordinate, or administer activities related to or involving travel to a terrorist state; defining " terrorist state".

Section 2. Amends s. 1011.90, F.S., prohibiting the use of state or non-state funds made available to state universities to implement, organize, direct, coordinate, or administer activities related to or involving travel to a terrorist state; defining " terrorist state".

Section 3. Amends s. 112.061, F.S., providing that travel expenses of public officers or employees for the purpose of implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state shall not be allowed under any circumstances.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

[5] Office of the Coordinator for Counter Terrorism, U.S. Department of State, *Country Reports on Terrorism 2004*, p. 88, April 2005.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

A survey conducted by the Division of Community Colleges and Workforce Education of the Florida Department of Education indicated that, in the last five years, one community college has sponsored a trip to a country classified by the Department of State as a terrorist state – i.e., an educational trip to Cuba that was paid for with private funds rather than Community College Program Fund or other state funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 112.061, F.S., is about per diem and travel expenses of public officers, employees, and *authorized persons.* The bill provides travel expense limitations on public officers and employees, but it is silent on authorized person's travel limitations.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to travel to terrorist states; amending s.
3 1011.81, F.S.; prohibiting the use of funds from the
4 Community College Program Fund, or funds made available to
5 community colleges from outside the fund, to implement,
6 organize, direct, coordinate, or administer activities
7 related to or involving travel to a terrorist state;
8 defining "terrorist state"; amending s. 1011.90, F.S.;
9 prohibiting the use of state or nonstate funds made
10 available to state universities to implement, organize,
11 direct, coordinate, or administer activities related to or
12 involving travel to a terrorist state; defining "terrorist
13 state"; amending s. 112.061, F.S.; providing that travel
14 expenses of public officers or employees for the purpose
15 of implementing, organizing, directing, coordinating, or
16 administering activities related to or involving travel to
17 a terrorist state shall not be allowed under any
18 circumstances; defining "terrorist state"; providing an
19 effective date.
20
21 Be It Enacted by the Legislature of the State of Florida:
22
23 Section 1. Section 1011.81, Florida Statutes, is amended
24 to read:
25 1011.81 Community College Program Fund.--
26 (1) There is established a Community College Program Fund.
27 This fund shall comprise all appropriations made by the
28 Legislature for the support of the current operating program and

29 shall be apportioned and distributed to the community college
30 districts of the state on the basis of procedures established by
31 law and rules of the State Board of Education. The annual
32 apportionment for each community college district shall be
33 distributed monthly in payments as nearly equal as possible.
34 (2) None of the funds made available in the Community
35 College Program Fund, or funds made available to community
36 colleges outside the Community College Program Fund, may be used
37 to implement, organize, direct, coordinate, or administer, or to
38 support the implementation, organization, direction,
39 coordination, or administration of, activities related to or
40 involving travel to a terrorist state. For purposes of this
41 section, "terrorist state" is defined as any state, country, or
42 nation designated by the United States Department of State as a
43 state sponsor of terrorism.
44 Section 2. Subsection (6) is added to section 1011.90,
45 Florida Statutes, to read:
46 1011.90 State university funding.--
47 (6) None of the state or nonstate funds made available to
48 state universities may be used to implement, organize, direct,
49 coordinate, or administer, or to support the implementation,
50 organization, direction, coordination, or administration of,
51 activities related to or involving travel to a terrorist state.
52 For purposes of this section, "terrorist state" is defined as
53 any state, country, or nation designated by the United States
54 Department of State as a state sponsor of terrorism.
55 Section 3. Paragraphs (e), (f), and (g) of subsection (3)
56 of section 112.061, Florida Statutes, are redesignated as

57 paragraphs (f), (g), and (h), respectively, and a new paragraph
58 (e) is added to that subsection to read:
59 112.061 Per diem and travel expenses of public officers,
60 employees, and authorized persons.--
61 (3) AUTHORITY TO INCUR TRAVEL EXPENSES.--
62 (e) Travel expenses of public officers or employees for
63 the purpose of implementing, organizing, directing,
64 coordinating, or administering, or supporting the
65 implementation, organization, direction, coordination, or
66 administration of, activities related to or involving travel to
67 a terrorist state shall not be allowed under any circumstances.
68 For purposes of this section, "terrorist state" is defined as
69 any state, country, or nation designated by the United States
70 Department of State as a state sponsor of terrorism.
71 Section 4. This act shall take effect July 1, 2006.

HB 1237 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1237 CS Advanced Science and Technology Research
SPONSOR(S): Mealor
TIED BILLS: **IDEN./SIM. BILLS:** SB 2084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	10 Y, 0 N, w/CS	Hatfield	Tilton
2) Economic Development, Trade & Banking Committee	11 Y, 0 N	Olmedillo	Carlson
3) Education Appropriations Committee		Hamon K.W.H.	Hamon K.W.H.
4) Education Council			
5)			

SUMMARY ANALYSIS

In a January 30, 2006 press release, the Governor launched new economic development initiatives to bolster the state's efforts to diversify and build Florida's Innovation Economy. To coincide with this initiative, the Governor is recommending a $630 million investment in the 2006-2007 budget for programs that will generate the innovation needed to create the industries of the future; this includes $200 million to create and fund the 21st Century Technology, Research and Scholarship Enhancement Act.

The bill creates the 21st Century Technology, Research, and Scholarship Enhancement Act (the Act). The Act provides for the creation of the Florida Technology, Research, and Scholarship Board (the board) within the Board of Governors (BOG) to guide the establishment of Centers of Excellence and the attraction of world class scholars. The board is charged with recommending criteria to the BOG for the 21st Century World Class Scholars Program and with providing guidance to the BOG regarding the implementation and administration of the Centers of Excellence. The Act expires June 30, 2011.

The bill provides for the allocation of state matching funds to attract world class scholars to state universities. The bill requires a state university to raise no less than $1 million to be eligible for state matching funds to recruit a world class scholar. Funds raised will be eligible for a one-to-one match from the state. The bill prohibits revenues received from state appropriations, student tuition and fees, and state funded contracts or grants to be eligible for the state match.

The bill provides for the creation or expansion of Centers of Excellence. Applicants may include entities other than state universities; however, all applicants must submit and demonstrate coordination with one or more state universities in order to be eligible for funding. The bill requires the board to recommend to the BOG criteria for the approval of proposals to create or expand a center and provides guidelines for the criteria. The bill also requires the board to recommend to the BOG for approval and funding the proposals that meet the approved criteria.

The bill appropriates $100 million to the 21st Century World Class Scholars Program, $100 million to the Centers of Excellence Program, and $399,437 to the BOG for the fiscal year 2006-2007 to implement the Act. See the FISCAL COMMENTS section for further details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill creates the Florida Technology, Research, and Scholarship Board (the board) within the Board of Governors (BOG), requires certain duties of the board, and requires the BOG to provide staff support and other support for the board.

B. EFFECT OF PROPOSED CHANGES:

Background

In 2002, the Governor proposed $100 million for the creation of Centers of Excellence to increase technology research at state universities and diversify the state's economy by stimulating the high-tech economic job sector. Three Centers of Excellence were created: the Center of Excellence in Biomedical and Marine Biotechnology at Florida Atlantic University, the Florida Photonics Center of Excellence at the University of Central Florida, and the Center of Excellence in Regenerative Health Biotechnology at the University of Florida. The Legislature provided $30 million for these Centers of Excellence in the 2002-2003 General Appropriations Act (GAA).[1]

According to the BOG, as of January 2006, the centers have leveraged the state's investment to achieve the following outcomes:

FISCAL PERFORMANCE MEASURES	FAU	UCF	UF	TOTAL
Amount Of:				
Initial State Funds Awarded	$10,000,000	$10,000,000	$10,000,000	$30,000,000
Venture Funding Attracted	$0	$10,500,000	$0	$10,500,000
Other State Grants and Funds Awarded	$827,138	$5,062,900	$0	$5,890,038
Federal Research Funds Awarded	$18,789,389	$15,970,187	$3,250,000	$38,009,576
Private Research Funds Awarded	$3,157,859	$8,952,539	$10,000	$12,120,398
Foundation Funds Invested	$2,300,000	$0	$10,000,000	$12,300,000
License Income Earned	$5,500	$181,250	$0	$186,750
TOTAL				$109,006,762

[1] 2002-2003 General Appropriations Act, Specific Appropriation 173A.

In addition to their performance on fiscal measures, the centers report the following measures of research productivity:

PRODUCTIVITY PERFORMANCE MEASURES[2]	FAU	UCF	UF	TOTAL
Number Of:				
Research Studies and Articles Published	55	138	125	318
Research Collaborations	27	29	2	58
K-20 Students and Teachers Served	2470	15	100	2585
Industry Internships Granted to Graduate Students	3	15	0	18
Patents Filed	21	40	0	61
Patents Issued	23	14	0	37
Technologies Licensed	3	3	0	6
Affiliated Companies	0	2	1	3
Start up Businesses	3	4	0	7
Out-of-State Businesses Contacted	31	34	5	70
Contacts with Venture Capitalists	14	10	3	27

In a January 30, 2006 press release, the Governor launched new economic development initiatives to bolster the state's efforts to diversify and build Florida's Innovation Economy. To coincide with this initiative, the Governor is recommending a $630 million investment in the 2006-2007 budget for programs that will generate the innovation needed to create the industries of the future; this includes $200 million to create and fund the 21st Century Technology, Research and Scholarship Enhancement Act.

- $100 million is to be used to create and expand the Centers of Excellence around key sectors of the economy. According to the press release, this program would allow state universities and their research partners to leverage public and private dollars to build the infrastructure to support emerging research and development projects. The collaboration between industry and academia would help drive inventions and innovations from the lab to the marketplace.

- $100 million is to be used to create the World Class Scholars Program. According to the press release, this program would give universities the financial resources to attract leading researchers from around the globe to Florida. Funds may be used for incentives, including building labs, providing high-tech equipment or funding support staff. The state would match the investment of universities dollar-for-dollar.

Effects of Proposed Changes

The bill creates the 21st Century Technology, Research, and Scholarship Enhancement Act (the Act) and provides legislative findings and intent.

The purpose of the Act is to:

- Invest in programs that attract world class scholars and build Centers of Excellence, both of which are important means of increasing technology-based business in this state.
- Require co-investment as a means of leveraging state dollars.
- Align research and development efforts with established, statewide economic-development strategies, including an emphasis on identified economic clusters.
- Facilitate value-added job creation through continuous improvement in university research, as well as entrepreneurship and capital-development programs.
- Establish Florida as a leading state for entrepreneurship and innovation, with continued commitment to university centers and an expanding base of research and development.

The bill defines the following terms for purposes of the Act:

- "A 21st Century World Class Scholar" means a principle researcher/investigator who has high academic credentials, demonstrated competence, and experience that meets the requirements established by the board for a 21st Century World Class Scholar.
- "Applicant" means any state university, private university located in this state, or any private or public research center, community college, or training center in this state which coordinates with a state university for purposes of this act.
- "Board" means the Florida Technology, Research, and Scholarship Board.
- "Center of Excellence" means an organization of personnel, facilities, and equipment established at or in collaboration with one or more state universities to accomplish the purposes and objectives of this act.
- "Research center" means an institute, center, or clinic that includes research and development or education as a principal mission of the organization.
- "State university" means a Florida public university as defined in s. 1000.21, F.S.

Florida Technology, Research, and Scholarship Board

The bill creates the Florida Technology, Research, and Scholarship Board (the board) within the Board of Governors (BOG) to guide the establishment of centers and the attraction of world class scholars. The board consists of 11 members, seven of whom must be appointed by the Governor, two appointed by the President of the Senate, and two appointed by the Speaker of the House. The Governor's appointees must include a member of the board of directors of Enterprise Florida, Inc., and a member of the BOG. Appointed members must be representative of business leaders, industrial researchers, academic researchers, scientists, and leaders in the emerging and advanced technology sector and may not serve more than four years. The chair of the board is appointed by the Governor.

The board members serve without compensation, but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, F.S. The BOG must provide support staff for the activities of the board and per diem and travel expenses for board members.

The board is charged with recommending to the BOG criteria for the 21st Century World Class Scholars Program and with providing guidance to the BOG regarding the implementation and administration of the Centers of Excellence Program. In addition, the board must recommend to the BOG the qualifications, standards, and requirements for approval of investments in Centers of Excellence. The bill provides that the board may form committees of its members and encourages the board to consult with certain research entities whose input may be helpful in determining the requirements and standards for the Centers of Excellence Program.

21st Century World Class Scholars Program

The bill provides for the allocation of state matching funds to attract world class scholars to state universities. The bill requires the World Class Scholars Program to be used as a tool to develop the state's capabilities in science and high-technology research, emphasizing Florida's identified strengths in science and technology while also recognizing new technologies as they may emerge.

The bill requires the board to consult with certain state university officials, the Office of Tourism, Trade, and Economic Development, the board of directors of Enterprise Florida, Inc., and leading members of the private industry, to develop and recommend to the BOG the criteria for the World Class Scholars Program. The criteria recommended to the BOG must address, at a minimum:

- The presence of distinguished faculty members, outstanding students, and adequate research and scholarly support services.
- The existence of an academic environment having appropriate infrastructure
- The demonstration of concordance with Florida's strategic plan for economic development or an emphasis on one or more emerging sciences or technologies that could favorably impact the state's economic future.

The bill requires a state university to raise no less than $1 million to be eligible for state matching funds to recruit a world class scholar. Funds raised will be eligible for a one-to-one match from the state. The bill prohibits revenues received from state appropriations, student tuition and fees, and state funded contracts or grants to be eligible for the state match. Upon verification by the BOG that a state university has met the criteria for a world class scholar, the BOG must release matching funds to the university. The bill requires funds to be used for the purpose of recruiting a World Class Scholar. Funds must also be expended according to an expenditure plan approved by the BOG.

The bill provides that the Act does not replace or obviate existing programs.

Centers of Excellence

The bill also specifies the purposes and objectives of Centers of Excellence, which include recruiting and retaining world class scholars. The bill requires the board to recommend to the BOG criteria for approving proposals to create or expand Centers of Excellence and provides certain factors that must be considered.

The bill requires the board to periodically solicit proposals for Centers of Excellence. Applicants may include entities other than state universities; however, all applicants must submit and demonstrate coordination with one or more state universities in order to be eligible for funding. The board must notify the president of each state university and applicable research centers in this state of the call for proposals.

The board must recommend to the BOG for approval and funding the proposals that meet the approved criteria. If no program is judged worthy of approval during a solicitation cycle, an approval does not have to be made. The bill provides that the Act does not establish a limit for an investment amount; however, any approval for a single center exceeding $20 million must be documented to have superior prospects for success in its field of research and offer outstanding opportunities to leverage state dollars.

The bill requires a Center of Excellence that receives funding under the Act to provide at least annual reports to the board and the BOG concerning its achievement of objectives as identified in the approved proposal.

Other Provisions

The BOG is required to issue an annual report by December 31 of each year that provides information relating to the World Class Scholars Program and the created or expanded Centers of Excellence. The annual BOG report must be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include a copy of an independent audit of the board and a review of the progress of the programs established pursuant to the Act.

The Act expires June 30, 2011.

The bill appropriates $100 million to the 21st Century World Class Scholars Program, $100 million to the Centers of Excellence Program, and $399,437 to the BOG for the fiscal year 2006-2007 to implement this Act. See the FISCAL COMMENTS section for further details.

The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Creates s. 1004.226, F.S., the 21st Century Technology, Research, and Scholarship Enhancement Act; providing legislative findings and intent; providing definitions; creating the Florida Technology, Research, and Scholarship Board within the Board of Governors; providing for members of the board and terms; providing for board members to be reimbursed for per diem and expenses incurred in the performance of their duties; requiring that the Board of Governors provide staff support and other support for the board; requiring that the board provide recommendations for the 21st Century

World Class Scholars Program and the Centers of Excellence Program; authorizing the board to form committees and consult with certain other entities; providing for the 21st Century World Class Scholar Program to provide matching funds to state universities; providing guidelines for the board in the development of criteria for recommendation to the Board of Governors; requiring a minimum investment of funds; specifying the purposes of the Centers of Excellence; requiring the board to recommend to the Board of Governors criteria for approving proposals to create or expand a Center of Excellence, to solicit proposals, and to recommend proposals that meet such criteria; requiring documentation if funds are approved for a Center of Excellence in excess of a specified amount; requiring reports by Centers of Excellence and the Board of Governors; and providing for the expiration of the act.

Section 2: Appropriates $200 million from nonrecurring general revenue for the 2006-2007 fiscal year to the Board of Governors, of which $100 million is allocated for the 21st Century World Class Scholars Program and $100 million for the Centers of Excellence Program; and provides for carrying forward certain unexpended balances.

Section 3: Appropriates certain sums of money and full-time positions to the Board of Governors for the 2006-2007 fiscal year, for the purpose of administering this act.

Section 4: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides for the establishment of the 21st Century World Class Scholars Program and the creation or expansion of Centers of Excellence. These programs may increase the economic development in this state which in turn may provide for additional employment opportunities for Florida citizens.

D. FISCAL COMMENTS:

For the fiscal year 2006-2007, the bill appropriates a total of $200 million from nonrecurring general revenue to the BOG, of which $100 million must be allocated for the 21st Century World Class Scholars Program and $100 million for the Centers of Excellence Program. The bill requires any unexpended balance from this appropriation to be carried forward at the end of each fiscal year until the 2010-2011 fiscal year. At the end of the 2010-2011 fiscal year, any remaining balance that has not been distributed by the BOG must revert unallocated to the General Revenue Fund.

The bill also appropriates a total of $399,437 and two full-time equivalent positions to the BOG for the 2006-2007 fiscal year for the purpose of administering this Act. The total appropriation provides for the following:

- Two full-time equivalent positions and $130,000 in approved annual salary rate.
- The sum of $162,959 from recurring general revenue funds for salaries and benefits.
- The sum of $101,892 from recurring general revenue funds for expenses.
- The sum of $3,800 from nonrecurring general revenue funds for operating capital outlay.
- The sum of $786 from recurring general revenue funds for transfer to the Department of Management Services for the Human Resources Services Statewide Contract.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

In the 2002 General Election, the people amended the State Constitution to create a Statewide Board of Governors to govern, operate, regulate, control, and be fully responsible for the management of the state university system.[2] The responsibilities include defining university missions, defining articulation with public schools and community colleges, coordinating and operating the university system, and avoiding wasteful duplication of facilities or programs. In addition, the Board of Governors must establish the powers and duties of the university boards of trustees. The Board of Governors' management of the state university system is subject to the power of the Legislature to appropriate for the expenditure of funds. The Board of Governors must account for the expenditure of funds as provided by law.

On December 21, 2004, Floridians for Constitutional Integrity, Inc., filed a complaint for declaratory judgment against the State Board of Education seeking to clarify the powers of the Board of Governors.[3] That suit has been partially settled by entry of an order ratifying a mediation agreement between the parties. The agreement declares that the Board of Governors has "full control and authority over the state university system" and that the Board has authority over all "non-appropriated funds administered by the state university system."[4] The Florida Legislature was not a party to the lawsuit and is not bound by the agreement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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[2] s. 7 art. IX, State Constitution.
[3] Case No. 2004 CA 003040, filed in the Circuit Court for the Second Judicial Circuit of Florida, Leon County.
[4] Mediation Agreement dated November 29, 2005, on file with Committee staff.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 14, 2006, the Colleges and Universities Committee adopted an amendment to HB 1237. The bill was reported favorably with a Committee Substitute (CS). The CS differs from the original bill in the following ways:

- Removes the endowment language.
- Prohibits revenues received from student tuition and fees and state funded contracts or grants from being eligible for a state match.
- Requires funds to be expended according to an expenditure plan approved by the BOG.
- Changes the dates funds are to be carried forward and reverted from 2009-2010 to 2010-2011.

CHAMBER ACTION

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1 The Colleges & Universities Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to advanced science and technology
7 research; creating s. 1004.226, F.S.; creating the 21st
8 Century Technology, Research, and Scholarship Enhancement
9 Act; providing legislative findings and intent; providing
10 definitions; creating the Florida Technology, Research,
11 and Scholarship Board within the Board of Governors of the
12 State University System; providing for members of the
13 board; providing for terms; providing for board members to
14 be reimbursed for per diem and expenses incurred in the
15 performance of their duties; requiring that the Board of
16 Governors of the State University System provide staff
17 support and other support for the board; requiring that
18 the board provide recommendations for the 21st Century
19 World Class Scholars Program and the Centers of Excellence
20 Program; authorizing the board to form committees and
21 consult with certain other entities; providing for the
22 21st Century World Class Scholars Program to provide
23 matching funds to state universities; providing guidelines

24 for the board in the development of criteria for
25 recommendation to the Board of Governors; requiring a
26 minimum investment of funds; specifying the purposes of
27 the Centers of Excellence; requiring the board to
28 recommend to the Board of Governors criteria for approving
29 proposals to create or expand a Center of Excellence, to
30 solicit proposals, and to recommend proposals that meet
31 such criteria; requiring documentation if funds are
32 approved for a Center of Excellence in excess of a
33 specified amount; requiring reports by Centers of
34 Excellence and the Board of Governors; providing for
35 expiration of the act; providing appropriations and
36 authorizing positions; providing for carrying forward
37 certain unexpended balances; providing an effective date.
38
39 Be It Enacted by the Legislature of the State of Florida:
40
41 Section 1. Section 1004.226, Florida Statutes, is created
42 to read:
43 1004.226 The 21st Century Technology, Research, and
44 Scholarship Enhancement Act.--
45 (1) LEGISLATIVE FINDINGS AND INTENT.--
46 (a) The Legislature finds that diversifying this state's
47 economy requires a focus on building a growing base of high-wage
48 jobs and on nurturing those technologies and clusters that will
49 be the foundation of Florida's growing economic diversity and
50 prosperity.

51 (b) The Legislature further finds that special programs
52 are needed to facilitate the recruitment of exceptional talent
53 to Florida's research universities and centers and to provide
54 the infrastructure and resources that precipitate joint efforts
55 and coinvestment among state research and development
56 institutions, private industry, and government. Florida needs
57 consistent commitment and investment in order to further the
58 state's strategy of capitalizing on innovative research and
59 development to build a thriving, technology-rich economy.
60 (2) CREATION.--The 21st Century Technology, Research, and
61 Scholarship Enhancement Act is created for the purpose of:
62 (a) Investing in programs that attract world class
63 scholars and building Centers of Excellence as an important
64 means of increasing technology-based business in this state;
65 (b) Requiring coinvestment as a means of leveraging state
66 dollars;
67 (c) Aligning research and development efforts with
68 established, statewide economic-development strategies,
69 including an emphasis on identified economic clusters;
70 (d) Facilitating value-added job creation through
71 continuous improvement in university research, as well as
72 entrepreneurship and capital-development programs; and
73 (e) Establishing Florida as a leading state for
74 entrepreneurship and innovation, with continued commitment to
75 university Centers of Excellence and an expanding base of
76 research and development.
77 (3) DEFINITIONS.--As used in this section, the term:

78 (a) "A 21st Century World Class Scholar" means a principal
79 researcher/investigator who has high academic credentials,
80 demonstrated competence, and experience that meets the
81 requirements established by the board for a 21st Century World
82 Class Scholar.
83 (b) "Applicant" means any state university, private
84 university located in this state, or any private or public
85 research center, community college, or training center in this
86 state that coordinates with a state university for purposes of
87 this act.
88 (c) "Board" means the Florida Technology, Research, and
89 Scholarship Board.
90 (d) "Center of Excellence" means an organization of
91 personnel, facilities, and equipment established at or in
92 collaboration with one or more state universities to accomplish
93 the purposes and objectives of this act.
94 (e) "Research center" means an institute, center, or
95 clinic that includes research and development or education as a
96 principal mission of the organization.
97 (f) "State university" means a Florida public university
98 as defined in s. 1000.21.
99 (4) FLORIDA TECHNOLOGY, RESEARCH, AND SCHOLARSHIP
100 BOARD.--The Florida Technology, Research, and Scholarship Board
101 is created within the Board of Governors of the State University
102 System to guide the establishment of Centers of Excellence and
103 the attraction of world class scholars.
104 (a) The board shall consist of 11 members. Seven members
105 shall be appointed by the Governor, one of whom the Governor

106 shall appoint as chair of the board, one of whom must be a
107 member of the board of directors of Enterprise Florida, Inc.,
108 and one of whom must be a member of the Board of Governors of
109 the State University System. Two members shall be appointed by
110 the President of the Senate and two members shall be appointed
111 by the Speaker of the House of Representatives. Appointed
112 members must be representative of business leaders, industrial
113 researchers, academic researchers, scientists, and leaders in
114 the emerging and advanced technology sector. Appointed members
115 may not serve for more than 4 years and any vacancy that occurs
116 during these appointees' terms shall be filled in the same
117 manner as the original appointment. A majority of members
118 constitutes a quorum.
119 (b) Members of the board shall serve without compensation,
120 but are entitled to receive reimbursement for per diem and
121 travel expenses in accordance with s. 112.061 while in the
122 performance of their duties.
123 (c) The Board of Governors shall provide staff support for
124 the activities of the board and per diem and travel expenses for
125 board members.
126 (d) The board is charged with recommending criteria to the
127 Board of Governors for the 21st Century World Class Scholars
128 Program and with providing guidance to the Board of Governors
129 regarding the implementation and administration of the Centers
130 of Excellence Program. The board shall recommend to the Board of
131 Governors the qualifications, standards, and requirements for
132 approval of investments in Centers of Excellence under this act.
133 The board may form committees of its members and is encouraged

134 to consult with Enterprise Florida, Inc., the Florida Research
135 Consortium, Bio-Florida, IT Florida, the Florida Aviation and
136 Aerospace Alliance, and any other entity whose input may be
137 helpful in determining the requirements and standards for the
138 program.
139 (5) THE 21ST CENTURY WORLD CLASS SCHOLARS PROGRAM.--
140 (a) This act allocates state matching funds to attract
141 21st Century World Class Scholars to state universities.
142 (b) The 21st Century World Class Scholars Program shall be
143 used as a tool to develop the state's capabilities in science
144 and high-technology research, emphasizing Florida's identified
145 strengths in science and technology while also recognizing new
146 technologies as they may emerge.
147 (c) The board, in consultation with senior administrators
148 of state universities, state university foundation directors,
149 the Office of Tourism, Trade, and Economic Development, the
150 board of directors of Enterprise Florida, Inc., and leading
151 members of private industry, shall develop and recommend to the
152 Board of Governors criteria for the 21st Century World Class
153 Scholars Program. Such criteria shall address, at a minimum, the
154 following:
155 1. The presence of distinguished faculty members,
156 including whether the university has a substantial history of
157 external funding, along with the strong potential for attracting
158 a scholar of national or international eminence.
159 2. The presence of academically outstanding students,
160 along with the promise and potential for attracting additional
161 highly qualified students.

162 3. The presence of adequate research and scholarly support
163 services.
164 4. The existence of an academic environment having
165 appropriate infrastructure, including buildings, classrooms,
166 libraries, laboratories, and specialized equipment, that is
167 conducive to the conduct of the highest quality of scholarship
168 and research.
169 5. The demonstration of concordance with Florida's
170 strategic plan for economic development or an emphasis on one or
171 more emerging sciences or technologies that could favorably
172 impact the state's economic future.
173 (d) A state university must raise a minimum of $1 million
174 to be eligible for state matching funds to recruit a 21st
175 Century World Class Scholar. Funds raised by the university
176 shall be eligible for a one-to-one match from the state.
177 Revenues received from state appropriations, student tuition and
178 fees, and state-funded contracts or grants are not eligible for
179 state match.
180 (e) Upon the verification by the Board of Governors that a
181 state university has met the criteria for a 21st Century World
182 Class Scholar, the Board of Governors shall release matching
183 funds to the university. Funds shall be used for the purpose of
184 recruiting a 21st Century World Class Scholar and shall be
185 expended according to an expenditure plan approved by the Board
186 of Governors.
187 (f) Nothing in this act is intended to replace or obviate
188 existing programs.
189 (6) CENTERS OF EXCELLENCE.--

190 (a) The purposes and objectives of a Center of Excellence
191 include:
192 1. Identifying and pursuing opportunities for university
193 scholars, research center scientists and engineers, and private
194 businesses to form collaborative partnerships to foster and
195 promote the research required to develop commercially promising,
196 advanced, and innovative science and technology and to transfer
197 those discoveries to commercial sectors.
198 2. Acquiring and leveraging public-sector and private-
199 sector funding to provide the totality of funds, personnel,
200 facilities, equipment, and other resources needed to support the
201 research required to develop commercially promising, advanced,
202 and innovative science and technology and to transfer those
203 discoveries to commercial sectors.
204 3. Recruiting and retaining world class scholars, high-
205 performing students, and leading scientists and engineers in
206 technology disciplines to engage in research in this state and
207 to develop commercially promising, advanced, and innovative
208 science and technology.
209 4. Enhancing and expanding science and technology
210 curricula and laboratory resources at universities and research
211 centers in this state.
212 5. Increasing the number of high-performing students in
213 science and technology disciplines who graduate from
214 universities in this state and pursue careers in this state.
215 6. Stimulating and supporting the inception, growth, and
216 diversification of science and technology-based businesses and

217 ventures in Florida and increasing employment opportunities for
218 the workforce needed to support such businesses.
219 (b) The board shall recommend to the Board of Governors
220 criteria for approving proposals to create or expand a Center of
221 Excellence. Such criteria shall consider:
222 1. The maturity of the applicant's existing programs
223 relating to a proposed Center of Excellence.
224 2. The comprehensiveness and effectiveness of site plans
225 relating to a proposed Center of Excellence.
226 3. The existing amount of the applicant's resources
227 dedicated to activities relating to a proposed Center of
228 Excellence.
229 4. The regional economic structure and climate.
230 5. The degree to which the applicant identifies and seizes
231 opportunities to collaborate with other public or private
232 entities for research purposes.
233 6. The presence of a comprehensive performance and
234 accountability measurement system.
235 7. The use of an integrated research and development
236 strategy using multiple levels of the educational system.
237 8. The ability of the applicant to raise research funds
238 and leverage public and private investment dollars to support
239 advanced and emerging scientific and technological research and
240 development projects.
241 9. The degree to which the applicant transfers advanced
242 and emerging sciences and technologies from its laboratories to
243 the commercial sector.

244 10. The degree to which the applicant stimulates and
245 supports the creation of new ventures.
246 11. The existence of a plan to enhance academic curricula
247 by improving communication between academia and industry.
248 12. The existence of a plan to increase the number,
249 quality, and retention rate of faculty and graduate students in
250 advancing and emerging science and technology-based disciplines.
251 13. The existence of a plan to increase the likelihood of
252 faculty and graduate students pursuing private-sector careers in
253 the state.
254 14. The ability of the applicant to provide capital
255 facilities necessary to support research and development.
256 (c) The board shall periodically solicit proposals for
257 Centers of Excellence. The board may issue broad solicitations
258 for applicants to establish a Center of Excellence, including
259 entities other than state universities. All applicants must
260 submit and demonstrate coordination with one or more state
261 universities in order to be eligible for funding. The board may
262 solicit proposals for a more defined Center of Excellence that
263 is intended to meet identified needs or capitalize on perceived
264 technology and research opportunities. The board shall notify
265 the president of each state university and applicable research
266 centers in this state of the call for proposals.
267 (d) The board shall recommend to the Board of Governors
268 for approval and funding those proposals that meet the criteria
269 approved by the Board of Governors.
270 (e) If no proposal is judged worthy of approval during a
271 solicitation cycle, an approval need not be made. This act does

272 not establish a limit for an investment amount; however, any
273 approval for a single Center of Excellence exceeding $20 million
274 must be documented to have superior prospects for success in its
275 field of research and offer outstanding opportunities to
276 leverage state dollars.
277 (7) ANNUAL REPORT.--
278 (a) Any Center of Excellence receiving funding pursuant to
279 this section shall provide at least annual reports to the board
280 and the Board of Governors concerning its achievement of
281 objectives as identified and presented in the approved proposal.
282 (b) The Board of Governors shall issue an annual report by
283 December 31 each year of the activities conducted, including the
284 accomplishments and overall economic benefits to the state, the
285 number of 21st Century World Class Scholars attracted, the
286 number of Centers of Excellence created or expanded, the success
287 of collaborations with related industries, and the success of
288 these programs. The annual report shall be presented to the
289 Governor, the President of the Senate, and the Speaker of the
290 House of Representatives. The annual report must include a copy
291 of an independent audit of the board and a review of the
292 progress of programs established pursuant to this section.
293 (8) EXPIRATION.--This section shall expire June 30, 2011.
294 Section 2. For the 2006-2007 fiscal year, the sum of $200
295 million is appropriated from nonrecurring general revenue to the
296 Board of Governors of the State University System, of which $100
297 million shall be allocated for the 21st Century World Class
298 Scholars Program and $100 million for the Centers of Excellence
299 Program. Notwithstanding s. 216.301, Florida Statutes, and

300 pursuant to s. 216.351, Florida Statutes, any unexpended balance
301 from this appropriation shall be carried forward at the end of
302 each fiscal year until the 2010-2011 fiscal year. At the end of
303 the 2010-2011 fiscal year, any remaining balance of this
304 appropriation that has not been disbursed by the Board of
305 Governors shall revert unallocated to the General Revenue Fund.
306 Section 3. The following sums of money and full-time
307 equivalent positions are appropriated to the Board of Governors
308 of the State University System for the 2006-2007 fiscal year for
309 the purpose of administering this act:
310 (1) Two full-time equivalent positions and 130,000 in
311 approved annual salary rate;
312 (2) The sum of $162,959 from recurring general revenue
313 funds for salaries and benefits;
314 (3) The sum of $101,892 from recurring general revenue
315 funds for expenses;
316 (4) The sum of $3,800 from nonrecurring general revenue
317 funds for operating capital outlay; and
318 (5) The sum of $786 from recurring general revenue funds
319 for transfer to the Department of Management Services for the
320 Human Resource Services Statewide Contract.
321 Section 4. This act shall take effect July 1, 2006.

HB 1373 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1373 CS Supplemental Educational Services
SPONSOR(S): Attkisson
TIED BILLS: **IDEN./SIM. BILLS:** SB 2616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	9 Y, 0 N, w/CS	Beagle	Mizereck
2) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

The No Child Left Behind Act of 2001 (NCLB) authorizes the use of federal funds to provide supplemental educational services (SES) to low income children attending low performing schools. States are required to adopt standards governing the provision of SES to eligible students. Currently, there are no provisions in Florida law establishing state standards for SES services.

The bill establishes statewide standards governing the provision of SES and prescribes certain responsibilities to the Department of Education (DOE), local education agencies (LEA), SES providers, and parents.

The bill sets an effective date of July 1, 2006.

This bill does not have a fiscal impact. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill requires the Department of Education and school districts to take certain measures to increase access to supplemental educational services.

Empower Families: The bill increases opportunities for parents to enroll their child in supplemental education services. The bill establishes standards for supplemental educational services providers.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

NCLB authorizes the use of federal funds to provide SES to low income children attending low performing schools. SES may include tutoring, additional instruction, or other services provided outside of the regular school day in reading, language arts, or mathematics.[1]

Generally, a student is eligible for SES if the student meets school district established criteria for low income status and is attending a school subject to restructuring or corrective action or in its second year of school improvement.[2] NCLB requires state education agencies (SEA) to take certain measures to promote provider participation in the provision of SES.[3] Each SEA must also follow federally established criteria in establishing state standards for approving providers. Each SEA must maintain and disseminate to school districts a list of the approved providers available in each school district.

School districts are required by NCLB to promptly inform parents that the school their child is attending is in need of improvement.[4] In addition, school districts must provide parents a list of state-approved providers.[5] Parents may utilize approved programs conducted by a non-profit entity, a for-profit entity, LEA, an educational service agency, a public school, a public charter school, or a private school.[6]

Currently, there are no provisions in Florida law establishing state standards for SES services.

Effect of Proposed Changes:

House bill 1373 establishes statewide standards governing the provision of SES and prescribes certain responsibilities to the DOE, LEA, SES providers, and parents. Many of these requirements are already in federal law and some build on current requirements of federal law.

Department of Education Responsibilities:

- Identify, notify, promote participation, and approve potential providers.
- Develop pre- and post-assessments to identify and target instruction to student needs and monitor the effectiveness of services.
- Maintain a statewide and regional list of approved providers, and make lists available to school districts.
- Develop standards for monitoring quality and effectiveness of provider services.
- Ensure that LEAs have met obligations to parents.

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[1] 34 C.F.R. § 200.45.
[2] U.S. Department of Education, Supplemental Education Services: Quick Reference for Parents, available at http://www.ed.gov/parents/academic/help/supplemental-services.html (Accessed Mar. 16, 2006).
[3] Id.
[4] 34 C.F.R. § 200.37.
[5] 34 C.F.R. § 200.46.
[6] 34 C.F.R § 200.47

- Notify LEAs of specific schools that are subject to restructuring or corrective action or in the second year of school improvement.
- Post a downloadable enrollment application on the DOE website.
- Convene an advisory council to assist DOE in developing regulations to guide the selection and oversight of SES providers.

Local Education Agency Responsibilities:
- Provide recurrent notification to parents of eligible students about the availability of SES.
- Assist parents in obtaining and registering for services.
- Determine per-student funding based on federal law limits.
- Follow prescribed procedures for agreements with SES providers.
- Approve providers in a fair and transparent manner and establish procedures for monitoring provider quality and performance.

Provider Responsibilities:
- Set and target instruction to student achievement goals.
- Establish and explain procedures for monitoring progress and notifying parents and classroom instructors of student progress.
- Ensure that all instruction is secular, neutral, and nonideological.

Parent Responsibilities:
- Request services and select a provider.
- Provide transportation to the student when not otherwise provided by the provider.
- Work with providers to set student goals and maintain open communication with the provider.

In addition, the bill establishes eligibility criteria that SES providers must meet to gain state approval and requires the DOE to establish a system for conducting annual evaluations of all SES providers. The bill establishes a complaint process for parents, students, LEAs, and SES providers for determining whether the DOE and LEAs are in compliance with applicable laws and regulations governing SES.

The bill authorizes the DOE to withhold Title I funds from LEAs that fail to provide SES to eligible students.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law governing the provision of SES.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires the DOE and LEAs to take certain measures to notify parents of eligible students of the availability of supplemental educational services. Private providers approved by DOE may experience an increase in demand for their services.

D. FISCAL COMMENTS:

NCLB requires school districts with schools subject to restructuring or corrective action or in the second year of school improvement to set aside 20% of their Title I funds to pay for SES. The bill requires LEAs to establish per student funding amounts and take certain measures to increase the availability of SES to eligible students. The increased demand for SES that is likely to occur will result in greater expenditures of Title I funds within the 20% set aside for providing SES.

The bill prohibits school districts from using leftover SES funds for other Title I purposes unless the district ensures that a minimum of 50% of eligible students are being served. School districts are required to take additional measures to notify, enroll, and serve SES students and must also obtain a documented denial of services from each parent who does not enroll their student in SES. School districts that fall short of the 50% enrollment criteria despite reasonable efforts to comply with these measures may request authorization from the DOE to redesignate unused SES funds for other Title I purposes.

The bill allows the DOE to withhold Title I funds from school districts that fail to meet certain obligations pertaining to SES services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because the bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds; reduce authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the PreK-12 Committee adopted two amendments to the bill.

The first amendment provides a procedure for LEAs to redesignate unused SES funds for other Title I purposes. The second amendment establishes an advisory council to assist DOE in developing regulations to guide the selection and oversight of SES providers.

This bill analysis reflects the bill as amended.

CHAMBER ACTION

1 The PreK-12 Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to supplemental educational services;
7 providing for student access to and provider
8 accountability for supplemental educational services in
9 Title I schools; providing definitions; providing
10 responsibilities of the Department of Education, local
11 educational agencies, providers of supplemental
12 educational services, and parents to provide additional
13 academic instruction designed to increase the academic
14 achievement of eligible students; providing criteria that
15 must be met by a provider approved by the department;
16 providing for department monitoring and evaluation of
17 provider performance; providing a complaint process for
18 determination of provider and local educational agency
19 compliance with law; providing an effective date.
20
21 Be It Enacted by the Legislature of the State of Florida:
22

23 Section 1. Supplemental educational services in Title I
24 schools; student access and provider accountability.--
25 (1) DEFINITIONS.--As used in this section:
26 (a) "Adequate yearly progress" or "AYP" means performance
27 based on a series of performance goals that each school, each
28 local educational agency, and the state must achieve within
29 specified timeframes in order to meet the 100-percent
30 proficiency goal established by the federal No Child Left Behind
31 Act of 2001.
32 (b) "Eligible student" means a student from a low-income
33 family who attends a Title I school in the school's second year
34 of school improvement, corrective action, or restructuring, as
35 defined by the No Child Left Behind Act of 2001.
36 (c) "Instructor" or "tutor" means a person employed by a
37 supplemental educational service provider to deliver instruction
38 in reading, language arts, or mathematics to eligible students
39 enrolled in the provider's program.
40 (d) "Local educational agency" or "LEA" means a local
41 board of education.
42 (e) "No Child Left Behind Act of 2001" or "NCLB" is a
43 reauthorization of the Elementary and Secondary Education Act of
44 1965, which is the principal federal law affecting education
45 from kindergarten through high school. The NCLB is designed to
46 improve student achievement and close achievement gaps. States
47 are required to develop challenging academic standards, educate
48 all students to 100-percent proficiency by 2014, and create and
49 implement a single, statewide accountability system.

50 (f) "Parent" means the person or persons legally
51 responsible for the guardianship of the student, including a
52 legal guardian.
53 (g) "Supplemental educational service providers" or "SES
54 providers" are faith-based organizations, for-profit and
55 nonprofit businesses, local educational agencies, schools,
56 institutes of higher education, community groups, and regional
57 educational service agencies approved by the Department of
58 Education to provide additional academic instruction designed to
59 increase the academic achievement of eligible Title I students.
60 (h) "Supplemental educational services" or "SES" means
61 additional academic instruction provided outside the regular
62 school day that is designed to increase the academic achievement
63 of low-income students, as defined by eligibility for free or
64 reduced-price meals, who attend qualifying schools as defined by
65 the No Child Left Behind Act of 2001.
66 (i) "Title I" is the Elementary and Secondary Education
67 Act of 1965 program that focuses on improving the academic
68 achievement of disadvantaged students by ensuring that all
69 students have a fair, equal, and significant opportunity to
70 obtain a high-quality education and reach, at a minimum,
71 proficiency on challenging state academic standards and
72 assessments.
73 (2) REQUIREMENTS.--
74 (a) State responsibilities.--The Department of Education
75 shall:
76 1. Consult with parents, teachers, school districts, and
77 interested members of the public to identify a large number of

78 SES providers so that parents have a wide variety of high-
79 quality choices.
80 2. Provide and disseminate broadly an annual notice to
81 potential providers outlining the process for obtaining approval
82 to be an SES provider. There shall be at least two opportunities
83 each year for potential providers to submit their applications
84 to the department.
85 3. Develop and apply objective criteria for approving
86 potential providers. Each provider's SES program shall:
87 a. Include an appropriate, diagnostic assessment for use
88 in identifying a student's weaknesses and achievement gaps upon
89 which to build an individual student learning plan and learning
90 goals.
91 b. Use targeted remediation or instruction that is aimed
92 at addressing a student's skill gaps revealed during the
93 assessment and that is based upon an individual student learning
94 plan.
95 c. Include a post assessment linked to the diagnostic
96 assessment to determine whether student learning gains occurred
97 and to further develop a plan for either reteaching skills or
98 identifying new skills for instruction.
99 d. Align with the Sunshine State Standards in the area of
100 reading or mathematics, or both.
101 e. Supplement the academic program a student experiences
102 in the regular school day.
103 f. Use high-quality, research-based instructional
104 practices that are specifically designed to increase students'
105 academic achievement.

106 4. Maintain an updated list of approved providers.
107 5. Exercise authority to investigate and remove providers
108 from the approved list based on evaluation results.
109 6. Make available to school districts a list of available
110 approved providers in their general geographic locations.
111 7. Develop, implement, and publicly report on monitoring
112 standards for providers to ensure the quality and effectiveness
113 of services offered by approved providers.
114 8. Ensure that an LEA has fully met parental demands for
115 SES. In determining whether an LEA has fully met parental
116 demands for SES, the department shall consider whether an LEA
117 has:
118 a. Appropriately notified all eligible parents of the
119 availability of SES.
120 b. Adequately publicized options to parents through
121 multiple forums in understandable formats and languages.
122 c. Offered parents a reasonable period of time to
123 investigate their options and submit their requests for SES.
124 9. No later than May 1 each year, notify LEAs of the
125 specific schools that are in the second year of school
126 improvement, corrective action, or restructuring and have not
127 achieved AYP since such identification.
128 10. Place on its Internet website a standard, downloadable
129 enrollment application to be used by parents of eligible
130 students, which must be used by all LEAs for SES enrollment
131 purposes.
132 11. Convene an advisory committee to assist it in
133 developing regulations to guide the selection and oversight of

134 SES providers. These regulations shall be designed in order to
135 ensure that qualified providers utilize sound practices, provide
136 financial accountability, and utilize recommended or sufficient
137 metrics to best gauge provider effectiveness, such as
138 effectiveness in raising student achievement. The committee
139 shall include:
140 a. Two members appointed by the Speaker of the House of
141 Representatives.
142 b. Two members appointed by the President of the Senate.
143 c. Two district school board members appointed by the
144 Governor.
145 d. Parents appointed by the Governor.
146 e. Seven providers representing the different types of
147 providers in the SES field, such as on-line providers and small
148 and large for-profit, nonprofit, community-based, district-
149 based, and faith-based providers, appointed by the Governor.
150
151 The Commissioner of Education or his or her designee shall chair
152 the committee and submit for approval a proposal to the
153 Legislature no later than the end of the 2007 legislative
154 session.
155 (b) LEA responsibilities.--An LEA shall:
156 1. No later than 90 days prior to the start of the school
157 year, notify parents of eligible students about the availability
158 of SES. Notification shall meet the following criteria:
159 a. Be sent at least twice annually.

160 b. Be provided in an understandable and uniform format
161 and, to the extent practicable, in a language the parents can
162 understand.
163 c. Describe how parents may obtain services.
164 d. Provide a minimum of 20 school days for parents to
165 select and notify the LEA regarding a selected provider.
166 e. Create a streamlined, one-step SES parent registration
167 and provider selection process that is user friendly.
168 2. Help parents choose a provider, if such assistance is
169 requested, making sure that such assistance is unbiased and does
170 not provide advantage for one provider over another, including
171 the LEA if such LEA is an approved provider, and obtain
172 permission from parents to release assessment data to a selected
173 provider.
174 3. Determine and prioritize students who shall receive
175 services if not all students can be served. Determination shall
176 be made in accordance with eligibility criteria established in
177 federal law and with guidance from the United States Department
178 of Education, ensuring that prioritization does not take place
179 in advance of actual demand being documented and shall be based
180 on the 20-percent set-aside minus any actual costs associated
181 with providing transportation for public school choice pursuant
182 to subparagraph 18.
183 4. Determine the per-student spending limit according to
184 federal law only, which amount shall not be reduced or otherwise
185 altered.
186 5. Ensure that the opportunity to acquire SES is offered
187 to eligible students on a continuous basis or, at a minimum,

188 twice every school year, such as once at or near the start of
189 the school year and once at or near the start of each new
190 calendar year. An LEA that does not offer at least two
191 opportunities for SES enrollment shall not amend unobligated SES
192 into the general Title I budget.
193 6. Enter into an agreement with a provider selected by the
194 parent of an eligible student no later than 45 days after the
195 beginning of the school year or within 45 days after receiving
196 notification of school improvement status. The same procedure
197 shall be followed for subsequent enrollments during the school
198 year. An LEA that does not begin to offer SES within such time
199 periods shall not amend unobligated SES funds into the general
200 Title I budget. The agreement shall include, at a minimum:
201 a. A statement of specific achievement goals for each
202 eligible student whose parent elects to receive SES from the
203 approved provider.
204 b. A description of how student progress will be measured.
205 c. Progress reports for each student to whom a provider
206 gives services under the agreement.
207 d. Procedures for obtaining parental consent to release
208 assessment data to a selected provider.
209 e. Procedures for termination of the agreement with the
210 provider based on specific and material cause and include an
211 opportunity for the provider to cure any such breach.
212 Termination for convenience clauses shall not be allowed.
213 f. The payment process for students receiving SES, with
214 reimbursement for services to occur within 60 days following
215 submission of a complete invoice.

216 g. Records of attendance for each student receiving SES.
217 h. Security of information relating to students receiving
218 SES.
219 i. The procedure for facility access for providers, using
220 a fair, transparent, and objective process, to operate on site
221 in a school or schools identified for school improvement,
222 corrective action, or restructuring, free of charge or for a
223 reasonable fee, on the same basis and terms as are available to
224 other groups that seek access to the school building.
225 j. The process for records maintenance of a provider's SES
226 to students.
227 k. Guidelines specifying secular, neutral, and
228 nonideological instruction and content.
229 l. An outline of applicable federal, state, and local
230 laws, and rules and regulations required by law, in connection
231 with providing tutorial service.
232 7. Establish monitoring procedures to ensure that
233 providers fulfill their contractual obligations. Monitoring
234 should include tracking student progress toward meeting the
235 state's academic standards.
236 8. Select an approved provider or providers, using a fair,
237 transparent, and objective process, to operate on site in a
238 school or schools identified for school improvement, corrective
239 action, or restructuring, free of charge or for a reasonable
240 fee, on the same basis and terms as are available to other
241 groups that seek access to the school building. The LEA shall
242 not select a provider or providers based on a reduced per-
243 student amount as calculated under federal law or other criteria

244 that would otherwise be a department responsibility or
245 programmatic design criteria, such as the requirement of
246 specific student-tutor ratios.
247 9. Enter into a compact with the provider, parent, and
248 student. The compact, which shall be maintained for monitoring
249 purposes, shall include, at a minimum:
250 a. A notification letter to the parent of a student who is
251 eligible to receive SES from an approved provider.
252 b. Procedures regarding how the SES provider may contact
253 schools and parents regarding available services.
254 c. Development of a collaborative relationship with the
255 LEA to ensure that issues and concerns are handled in a timely
256 and efficient manner.
257 d. Specific achievement goals for the student, which shall
258 be developed in consultation with the student's parent.
259 e. An established timetable for improving the student's
260 achievement.
261 f. Selection of a provider from the department's approved
262 provider list.
263 g. Scheduled tutoring sessions.
264 10. Assist the department as needed in identifying
265 potential providers within the school district.
266 11. Provide the information the department needs to
267 monitor the quality and effectiveness of the SES offered by
268 providers as specified in federal law.
269 12. Protect the privacy of students who receive SES. The
270 LEA shall provide achievement data of students to providers
271 serving those students.

272 13. Notify parents immediately if a provider becomes
273 ineligible to serve as an SES provider. Notification shall
274 include the steps parents must follow in order to secure another
275 provider.
276 14. Provide approved providers with registration forms and
277 logistical information, including the procedures parents must
278 follow in obtaining SES for their children.
279 15. While appealing an AYP decision, continue to provide
280 services while the appeal is being resolved and a final AYP
281 determination is being made. If an appeal is granted, the LEA
282 shall continue to serve students currently receiving SES until
283 the end of the contract period but is not obligated to provide
284 SES to additional students.
285 16. Include in a school improvement plan steps to ensure
286 that eligible students will receive SES as required by law
287 whenever a school is classified as needing improvement for a
288 second or subsequent year.
289 17. Ensure that eligible students from any school that is
290 in the second year of school improvement, corrective action, or
291 restructuring and has not achieved AYP at least once since such
292 identification shall be offered SES before the start of the
293 school year.
294 18. Set aside up to 20 percent of its Title I, Part A
295 allocation for SES. Before determining that an amount less than
296 20 percent of its allocation is needed for choice-related
297 transportation and SES, an LEA shall document to the department
298 that it has fully met demands for these services. An LEA must
299 document, and make publicly available, that it has:

300 a. Appropriately notified all parents of eligible students
301 of the availability of public school choice and SES.
302 b. Adequately publicized the options to parents in
303 understandable formats and multiple forums.
304 c. Offered parents a reasonable period of time to
305 investigate their options and submit their requests for either
306 public school choice or SES.
307
308 LEAs may redesignate unused SES funds for other Title I purposes
309 by the May 15 consolidated application budget amendment deadline
310 by ensuring that a minimum of 50 percent of the students
311 eligible to receive SES are served by an approved provider. LEAs
312 not meeting the 50-percent requirement shall submit to the
313 department a list of eligible students, students receiving
314 services, and otherwise eligible students on a wait list. LEAs
315 must obtain documentation from the parents of unserved, but
316 otherwise eligible, students that they decline to participate in
317 SES for that school year. LEAs that are unable to meet the 50-
318 percent requirement despite reasonable efforts to comply with
319 these provisions may submit a request to the department for
320 authorization to redesignate unused SES funds. Redesignation
321 requests shall be approved if the department finds that the LEA
322 has met the requirements of subparagraph (a)8.
323 (c) Provider responsibilities.--The provider shall:
324 1. Agree to negotiate directly with LEAs to determine
325 scheduled sessions per student. Cost of services shall not
326 exceed the per-student spending limit calculated by each LEA.

327 2. Set specific achievement goals for each student, which
328 shall be developed in consultation with each student's parent.
329 3. Provide a description of how each student's progress
330 will be measured and how each student's parent and instructors
331 will be regularly informed of that progress.
332 4. Establish a timetable for improving each student's
333 achievement.
334 5. Agree not to disclose to the public the identity of any
335 student eligible for or receiving SES without the written
336 permission of the student's parent.
337 6. Agree to meet all applicable federal, state, and local
338 health, safety, and civil rights laws.
339 7. Ensure that all instruction and content are secular,
340 neutral, and nonideological.
341 8. Ensure that instruction is consistent with student
342 achievement goals.
343 9. Agree to abide by the education industry association's
344 current version of the SES code of ethics.
345 (d) Parent responsibilities.--The parent shall:
346 1. Request SES for the student.
347 2. Select a provider from the department's approved
348 provider list.
349 3. Transport students to and from the place of service
350 when not provided by the provider.
351 4. Work with the provider to set achievement goals for the
352 student.
353 5. Maintain open communication with a provider about a
354 student's progress.

355 (e) Provider criteria.--
356 1. Providers shall meet the following criteria:
357 a. Have a demonstrated record of effectiveness in
358 improving student academic achievement.
359 b. Document that the instructional strategies used by the
360 provider are of high quality, based upon research, and designed
361 to increase student academic achievement.
362 c. Document that services are aligned with the Sunshine
363 State Standards in the area of reading or mathematics, or both.
364 d. Provide evidence that the provider is financially
365 sound.
366 e. Document that the provider will provide SES consistent
367 with all applicable federal, state, and local health, safety,
368 and civil rights laws.
369 f. Meet all requirements set forth in guidelines issued by
370 the department, including, but not limited to, reporting
371 requirements, application requirements, deadlines, timelines,
372 and standards.
373 g. Provide instruction that is secular, neutral, and
374 nonideological.
375 2. Providers applying for statewide provider status upon
376 request shall serve students in any LEA regardless of the
377 geographical location. Providers approved for statewide provider
378 status may be removed from the provider list if this requirement
379 is not met. Providers removed from the statewide list may
380 reapply and specify a geographical area for their service.
381 (f) Monitoring and evaluation.--

382 1. The department shall monitor, at least annually, all
383 providers currently serving students. Monitoring shall be
384 conducted at a representative sample of the locations at which
385 the provider serves participating students.
386 a. The department shall schedule with the provider a
387 mutually agreeable date and time for a monitoring visit. Prior
388 to a monitoring visit, the department shall send to the
389 provider, in writing, confirmation of the scheduled date and
390 time.
391 b. Prior to a monitoring visit, the department shall
392 notify the provider of all documentation necessary to
393 demonstrate compliance with all applicable state and federal
394 laws related to SES. The provider may request technical
395 assistance from the department in identifying the relevant
396 documents.
397 c. A provider's performance on each monitoring standard
398 and a provider's overall performance rating shall be indicated
399 on the SES provider monitoring form. The department shall send
400 to the provider, in a timely manner, a copy of the completed
401 monitoring form that includes notes regarding items of
402 documentation that are missing or incomplete.
403 2. The department shall develop specific procedures to
404 annually evaluate all providers that have served students for 2
405 or more consecutive years in reading, language arts, or
406 mathematics. These procedures shall:
407 a. Account for, and be fair to, providers that serve both
408 large and small populations of students and that use varying
409 methods of instruction.

410 b. Be fair and sensitive enough to record gains of
411 individual students, especially students whose achievement level
412 is several grades behind grade level.
413 c. Isolate the effects of SES from other variables that
414 might affect a student's achievement using regression analysis,
415 comparison groups, or other valid and reliable statistical
416 means.
417 d. Collect qualitative data on parental satisfaction with
418 provider services.
419 e. Include safeguards against potential conflicts of
420 interests when the LEA is also an approved provider and is
421 involved in provider monitoring and evaluation.
422 3. If the department determines that a provider has failed
423 to contribute to increasing the academic proficiency of students
424 for 2 or more consecutive years in reading, language arts, or
425 mathematics in a specific LEA, the department shall remove the
426 provider from the approved provider list for that LEA.
427 4. The provider shall have the opportunity to appeal the
428 department's decision to the State Board of Education. The
429 provider may reapply to the department for approval after a 1-
430 year waiting period.
431 5. The department shall require an LEA to submit:
432 a. The parental notification letters the LEA has developed
433 and utilized to inform parents of eligible students.
434 b. At least twice during the school year, updated
435 information on how many students in the LEA are eligible for SES
436 and how many students make use of SES.

437 c. How much money, in total dollars and per student, is
438 being spent by the LEA on SES.
439 (g) Complaint process.--
440 1. The department shall monitor complaints from parents,
441 students, SES providers, school districts, and other individuals
442 to determine whether LEAs and SES providers are in compliance
443 with the applicable state and federal laws, rules, regulations,
444 and guidance governing the provision of SES. The department
445 shall annually provide a summary report to the State Board of
446 Education.
447 2. An organization or individual may file with the
448 department a signed, written complaint setting forth allegations
449 of noncompliance. The written complaint shall include, at a
450 minimum:
451 a. A clear statement of the allegation.
452 b. A summary of the facts upon which the allegation is
453 based.
454 c. Any documentation supporting the allegation.
455 d. The complainant's contact information, including the
456 name of an individual complainant or an authorized
457 representative of the complainant organization and the address
458 and telephone number of the individual or representative.
459 3. Complaints received from an organization or individual
460 shall be signed and addressed in writing to the department.
461 4. The department shall acknowledge, in writing, its
462 receipt of a complaint within 15 business days.
463 5. The department shall, in a timely manner, commence an
464 investigation of the allegations set forth in the complaint and

465 make an independent determination as to whether the allegations
466 warrant further review or action.
467 6. If necessary, the department may conduct an onsite
468 visit to clarify any issues raised by the complaint. An onsite
469 investigation team may examine relevant records and conduct
470 interviews of relevant persons to determine whether there has
471 been a violation of any applicable state or federal law, rule,
472 regulation, or guideline.
473 7. The department shall send written notification to all
474 appropriate parties of the steps necessary to resolve the
475 complaint, including technical assistance activities,
476 negotiations, and corrective actions to achieve compliance. This
477 notification may include specific requirements and timelines
478 that must be met in order to ensure that providers other than
479 LEAs continue to receive SES funds from the LEA. LEAs that are
480 providers shall meet the requirements in order to ensure that
481 funds equal to the amount of their SES set-aside are available
482 in the department's grants accounting system.
483 8. Upon conclusion of the department's investigation, the
484 department shall take appropriate action to remedy violations of
485 applicable laws, rules, regulations, or guidelines, including
486 removal of a provider from the approved provider list.
487 9. If the department makes the decision to remove a
488 provider from the approved provider list, the LEA shall be
489 notified no later than 10 business days after the department's
490 action. Each provider notified of the decision shall have the
491 right to appeal such decision prior to its becoming final.

492 10. If an LEA does not comply with providing SES to
493 eligible students within the established timeframe, the
494 department shall withhold funds equal to the amount of the LEA's
495 SES set-aside funds until the LEA complies.
496 11. If funds are withheld from an LEA for not providing
497 SES to eligible students within the specified timeframe, the
498 department may enter into agreements with providers in lieu of
499 the LEA.
500 Section 2. This act shall take effect July 1, 2006.

HB 7039

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7039 PCB CI 06-01 K-8 Virtual Schools
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1282

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee	7 Y, 0 N	Hassell	Kooi
1) Education Appropriations Committee		Eggers	Hamon
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill establishes the K-8 Virtual School Program as an optional educational choice program within the Department of Education. Like the K-8 Virtual School pilot programs, the K-8 Virtual School Program is established to deliver academic instruction through the use of on-line and distance learning technology to full-time students in kindergarten through eighth grade.

The bill provides for K-8 Virtual School Program student and school eligibility requirements, application procedures, participating school responsibilities, funding mechanisms, assessment and accountability, and causes for nonrenewal or termination of contract. Additionally, this bill addresses the participation of current schools currently in the K-8 Virtual School pilot program.

The K-8 Virtual School Program is subject to annual legislative appropriation in the General Appropriations Act. The Department of Education states that it would require 4 additional FTE staff positions in order to implement the K-8 Virtual School Program. Please see the FISCAL ANALYSIS section of the analysis.

The bill allows for the State Board of Education to adopt rules to implement and administer the K-8 Virtual School Program.

The bill provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the number of public school educational choice options available to K-8 public school students.

Safeguard individual liberty – The bill codifies a K-8 virtual educational choice option for parents of public school students.

Empower families – The bill provides parents of K-8 public school students with an opportunity to exercise parental choice by enrolling their child in a K-8 Virtual School program.

B. EFFECT OF PROPOSED CHANGES:

Background

In 2003, the Legislature authorized the Department of Education (DOE) to provide for the creation of at least two K-8 Virtual School pilot programs. The two pilot programs selected by the DOE were Connections Academy, Inc. and K12, Inc. The schools provide computers and help cover the cost of Internet access for their students who complete 10 to 30% of their work on-line depending on the grade level. Both of these schools utilize the parent or other responsible adult as the students' primary teachers while the virtual school teachers oversee the students' progress by checking samples of their work. These programs use on-line curriculum, lessons, and progress tests as well as books and other more traditional learning materials. A parent-teacher telephone conference is required at least once every two weeks. However, parents can reach virtual school teachers through e-mail or telephone at other times.

The 2003 and 2005 Legislature appropriated $4,800,000 for the K-8 Virtual School pilot programs. The pilot programs were funded with grants of up to $4,800 per student with a total enrollment not to exceed 1,000 students. The 2004 Legislature funded the grants in the same amount per student with total funding not to exceed $3,800,000, reducing student enrollment to 800 students. However, total student enrollment for the pilot programs returned to 1,000 students with the 2005 appropriation.

Effects of Proposed Changes

The bill establishes the K-8 Virtual School Program as an optional educational choice program within the Department of Education. Like the K-8 Virtual School pilot programs, the K-8 Virtual School Program is established to deliver academic instruction through the use of on-line and distance learning technology to full-time students in kindergarten through eighth grade. The bill provides for K-8 Virtual School Program student and school eligibility requirements, application procedures, participating school responsibilities, funding mechanisms, assessment and accountability, and causes for nonrenewal or termination of contract. Additionally, this bill addresses the participation of current schools in the K-8 Virtual School pilot program.

The K-8 Virtual School Program would still be subject to annual legislative appropriation. State funding for each participating school will continue to be based on total program enrollment and an amount per full-time equivalent student that is established each year in the General Appropriations Act. Consequently, until funds are appropriated it is unclear as to how many students would be able to participate in the program.

Student Eligibility

The bill provides that any K-8 student in Florida is eligible for enrollment in one of the participating K-8 Virtual Schools if the student meets one of the following conditions:

- The student has spent the prior school year in attendance at a Florida public school.
- The student was enrolled during the prior school year in a K-8 virtual school.
- The student is eligible to enroll in kindergarten or the first grade.
- The student has a sibling who is currently enrolled in a K-8 virtual school and was enrolled at the end of the prior school year.

Students enrolled in a K-8 virtual school are subject to the compulsory school attendance requirements of s. 1003.21, F.S., and must take the statewide assessments required under s.1008.22. Furthermore, the bill requires that the student's school district of residence must provide that student with access to the district's testing facilities.

School Eligibility and Application Procedures

The bill provides that schools eligible to participate in the K-8 Virtual School program include for-profit and nonprofit entities. However, an eligible school must meet all of the following conditions:

- Be nonsectarian in its programs, admission policies, employment practices, and operations.
- Comply with the antidiscrimination provisions of s. 1000.05, F.S.
- Participate in the state's performance accountability system pursuant to s. 1008.31, F.S.
- Locate its administrative office in the state and require all administrative and instructional personnel to be Florida residents.
- Require no tuition or student registration fee.

The bill requires the DOE to provide applicants with an application form in a sufficient time so that schools can apply and be approved by the DOE by the beginning of the 2007-2008 school year. Also, the bill requires the DOE to approve or deny an application within 90 days after the receipt of the application.

In addition to information that the DOE may require, the bill requires applicants to verify that they meet all eligibility criteria, that their school's instructional staff are professional educators certified pursuant to chapter 1012, and that all school employees have undergone the background screening requirement under s. 1012.32, F.S. Furthermore, the bill requires that each applicant provide the DOE with an education plan detailing how their curriculum and course content conforms to the Sunshine State Standards and a detailed annual financial plan for each year of operation for a minimum of 3 years.

Participating Schools and Pilot Schools

The bill provides for an initial 3-year contract between an approved virtual school and the DOE, subject to annual DOE review and legislative appropriation. Also, the bill provides for contract renewals for up to 5 years, subject to annual legislative appropriation.

The bill requires all schools participating in the K-8 Virtual School Program to provide each student with all necessary instructional material, each household with equipment such as a computer, monitor, and printer, and each household with access to or reimbursement for all Internet services necessary for the delivery of on-line instruction.

The bill authorizes the two K-8 Virtual School pilot programs to continue operation for the 2006-2007 school year, subject to the applicable provisions detailed in this bill. Furthermore, the bill requires the two pilot programs to apply to and be approved by the DOE in order to participate in the K-8 Virtual School Program beyond the 2006-2007 school year.

Assessment and Accountability

The bill provides that schools participating in the K-8 Virtual Schools must participate in the statewide assessments and be subject to the school grading system pursuant to s. 1008.34, F.S. Furthermore, a participating school that receives a performance grade of D or F is required to develop and file a school improvement plan with the DOE. In the event that a participating school receives a performance grade category of D or F for 2 school years in a 4-year period, the bill requires the DOE to terminate the contract.

Causes for nonrenewal or termination of contract

The bill grants the DOE authority to choose not to renew a contract or to terminate a current contract with a school participating in the K-8 Virtual School Program for any of the following reasons:

- Failure to participate in the state's performance accountability system.
- Failure to receive a school performance grade of C or better for 2 school years in a 4-year period.
- Failure to meet generally acceptable standards of financial management.
- Violation of law.
- Failure of the Legislature to fund the K-8 Virtual School Program.
- Other good cause shown.

The bill requires students who attended a school that is either not renewed or terminated to apply to and be enrolled in another public school. Also, the bill provides that the virtual school is responsible for all debts of the school in the event that it is either not renewed or terminated.

C. SECTION DIRECTORY:

Section 1. Creates s. 1002.375, F.S., establishing the K-8 Virtual School Program.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   The K-8 Virtual School Program is subject to annual legislative appropriation in the General Appropriations Act. Operational expenses for traditional students are funded predominantly through the Florida Education Finance Program (FEFP) which is a combination of state and local funds.

   According to the DOE analysis, the DOE would need 4 additional FTE staff positions for the implementation of this program.[1] However, the DOE currently administers and oversees the K-8 Virtual School pilot program within existing resources. Therefore, unless the funds appropriated are significantly increased, any additional costs should be minimal.

[1] Florida Department of Education, Governmental Relations Office, 2006 Legislative Bill Analysis on PCB06-01: K-8 Virtual School Program

The classifications of the 4 positions proposed by the DOE and associated recurring costs are as follows:

Program Specialist II (2)	
Base Salary	33,826
Benefits	13,159
Expenses	9,746
OCO	1,900
Human Resource Services	393
	$59,024 x 2 = $118,048

Program Specialist IV (1)	
Base Salary	42,655
Benefits	14,570
Expenses	9,746
OCO	1,900
Human Resource Services	393
	$69,264 x 2 = $138,528

The total recurring costs for additional staff, assuming additional funding made them necessary, would be $256,576.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

For traditional students in the FEFP, per full time equivalent student funding for operations is $6,153 in Fiscal Year 2005-06.[2] Current funding for the K-8 Virtual Schools pilot program is $4,800 as specified in the 2005-06 General Appropriations Act. The House Proposed General Appropriations Act for 2006-07 (House Bill 5001, Specific Appropriation 106B) contains $7 million for K-8 Virtual Education with grants of up $5,200 per student.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

[2] Florida Education Finance Program third calculation, dated December 19, 2005.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the State Board of Education rulemaking authority pursuant to ss. 120.536(1) and 120.54, F.S., to adopt rules for the implementation and administration of this program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to K-8 virtual schools; creating s.
3 1002.375, F.S.; establishing the Kindergarten through
4 Grade 8 (K-8) Virtual School Program within the Department
5 of Education; providing student eligibility requirements;
6 requiring enrolled students to meet compulsory school
7 attendance requirements and participate in the statewide
8 assessment program; providing school eligibility
9 requirements; authorizing schools to be for-profit or
10 nonprofit entities; providing a school application
11 procedure; requiring applicants to verify certain
12 information and submit certain plans; providing for 3-year
13 contracts for approved schools and authorizing contract
14 renewals; designating participating schools as independent
15 schools; requiring schools to provide each student with
16 the materials, equipment, and services necessary to
17 receive instruction; authorizing the current pilot K-8
18 virtual schools to continue operation through the 2006-
19 2007 school year; requiring pilot schools to meet all
20 application requirements in order to operate beyond the
21 2006-2007 school year; requiring program funding to be
22 established annually in the General Appropriations Act and
23 providing a payment schedule to schools; requiring schools
24 to participate in the statewide assessment program and be
25 subject to the school grading system; requiring school
26 improvement plans for low-performing schools and contract
27 termination for continued low school performance;
28 providing causes for nonrenewal or termination of a school

29 contract and responsibility for debt; providing for
30 student enrollment in another public school under certain
31 circumstances; requiring rulemaking; providing an
32 effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Section 1002.375, Florida Statutes, is created
37 to read:
38 1002.375 K-8 Virtual School Program.--
39 (1) K-8 VIRTUAL SCHOOL PROGRAM.--Subject to annual
40 legislative appropriation, the Kindergarten through Grade 8 (K-
41 8) Virtual School Program is established within the Department
42 of Education for the purpose of making academic instruction
43 available to full-time students in kindergarten through grade 8
44 using on-line and distance learning technology. The department
45 must use an application process to select schools to participate
46 in the program and to deliver program instruction.
47 (2) STUDENT ELIGIBILITY.--
48 (a) Enrollment in each participating school is open to any
49 K-8 student in the state provided the student meets at least one
50 of the following conditions:
51 1. The student has spent the prior school year in
52 attendance at a Florida public school. Prior year school
53 attendance means the student was enrolled and reported by a
54 public school district for funding during the preceding October
55 and February Florida Education Finance Program surveys.

56 2. The student was enrolled during the prior school year
57 in a K-8 virtual school funded pursuant to this section or the
58 2005-2006 General Appropriations Act.
59 3. The student is eligible to enroll in kindergarten or
60 the first grade.
61 4. The student has a sibling who is currently enrolled in
62 a participating K-8 virtual school and was enrolled at the end
63 of the prior school year.
64 (b) Students enrolled in a participating K-8 virtual
65 school are subject to the compulsory school attendance
66 requirements of s. 1003.21. Student attendance must be verified
67 according to department procedures.
68 (c) Each student enrolled in a participating K-8 virtual
69 school must take the statewide assessments required under s.
70 1008.22 within the student's school district of residence, which
71 must provide that student with access to the district's testing
72 facilities.
73 (3) SCHOOL ELIGIBILITY.--
74 (a) To be eligible to participate in the K-8 Virtual
75 School Program, a school must meet the following conditions:
76 1. Be nonsectarian in its programs, admission policies,
77 employment practices, and operations.
78 2. Comply with the antidiscrimination provisions of s.
79 1000.05.
80 3. Participate in the state's performance accountability
81 system created under s. 1008.31.

82 4. Locate its administrative office in the state and
83 require its administrative and instructional staff members to be
84 state residents.
85 5. Require no tuition or student registration fee.
86 (b) Schools applying to participate in the K-8 Virtual
87 School Program may be for-profit or nonprofit entities.
88 (4) APPLICATION PROCEDURES.--
89 (a) The department must provide an application form to be
90 completed by schools seeking to participate in the K-8 Virtual
91 School Program. Initial application forms must be made available
92 in sufficient time to enable schools to apply and be approved to
93 participate in the program by the beginning of the 2007-2008
94 school year. In addition to information that may be required by
95 the department, each applicant must provide verification that:
96 1. The applicant meets the eligibility criteria required
97 by this section.
98 2. All members of the school's instructional staff are
99 professional educators certified according to the provisions of
100 chapter 1012.
101 3. All school employees have undergone background
102 screening as required by s. 1012.32.
103 (b) In addition to a completed application form, each
104 applicant must provide the department with:
105 1. A detailed plan describing how the school curriculum
106 and course content will conform to the Sunshine State Standards.
107 2. An annual financial plan for each year of operation of
108 the school for a minimum of 3 years. The plan must contain
109 anticipated fund balances based on revenue projections, a

110 spending plan based on projected revenues and expenses, and a
111 description of controls that will safeguard finances and
112 projected enrollment trends.
113 (c) The department must approve or deny a school's
114 participation in the K-8 Virtual School Program within 90 days
115 after the receipt of an application.
116 (5) PARTICIPATING SCHOOLS.--
117 (a) A school approved by the department to participate in
118 the K-8 Virtual School Program must receive an initial 3-year
119 contract with the department to provide program services,
120 subject to annual department review and legislative
121 appropriation. Contract renewals may be for up to 5 years upon
122 agreement of both parties, contingent upon annual funding in the
123 General Appropriations Act.
124 (b) A school approved to participate in the program is
125 deemed to be an independent virtual school, providing on behalf
126 of the state a full-time, 180-day, on-line program of
127 instruction to students in kindergarten through grade 8.
128 (c) A school approved to participate in the program must
129 provide each student with:
130 1. All necessary instructional materials.
131 2. All equipment, including, but not limited to, a
132 computer, computer monitor, and printer for each household that
133 has a student enrolled in the virtual school.
134 3. Access to or reimbursement for all Internet services
135 necessary for on-line delivery of instruction for each household
136 that has a student enrolled in the virtual school.
137 (6) PILOT SCHOOLS.--

138 (a) The two pilot K-8 virtual schools for which funding
139 was provided in the 2005-2006 General Appropriations Act are
140 authorized to continue operation for the 2006-2007 school year.
141 (b) With the exception of the application and contracting
142 requirements, the pilot schools are subject to the provisions of
143 this section for the 2006-2007 school year.
144 (c) Each pilot school must complete the application
145 requirements of this section and be approved by the department
146 in order to participate in the K-8 Virtual School Program beyond
147 the 2006-2007 school year.
148 (7) FUNDING.--
149 (a) State funding for each participating K-8 virtual
150 school must be based on total program enrollment and an amount
151 per full-time equivalent student established annually in the
152 General Appropriations Act.
153 (b) Upon proper documentation of student enrollment
154 reviewed and approved by the department, payments must be made
155 to participating K-8 virtual schools in four equal payments no
156 later than September 1, November 1, February 1, and April 15 of
157 each academic year. The initial payment must be made after
158 department verification of student admission acceptance, and
159 subsequent payments must be made upon verification of continued
160 enrollment and attendance.
161 (8) ASSESSMENT AND ACCOUNTABILITY.--
162 (a) Each participating K-8 virtual school must participate
163 in the statewide assessment program created under s. 1008.22 and
164 be subject to the school grading system created under s.
165 1008.34.

166 (b) A participating K-8 virtual school with a performance
167 grade category of "D" or "F" must file a school improvement plan
168 with the department for consultation to determine the causes for
169 low performance and to develop a plan for correction and
170 improvement.
171 (c) The department must terminate the contract of any K-8
172 virtual school receiving a performance grade category of "D" or
173 "F" for 2 school years in a 4-year period.
174 (9) CAUSES FOR NONRENEWAL OR TERMINATION OF CONTRACT.--
175 (a) At the end of a contract with a K-8 virtual school,
176 the department may choose not to renew the contract on any of
177 the following grounds:
178 1. Failure to participate in the state's performance
179 accountability system created under s. 1008.31, as required in
180 this section.
181 2. Failure to receive a school performance grade category
182 of "C" or better under the school grading system created under
183 s. 1008.34 for 2 school years in a 4-year period.
184 3. Failure to meet generally accepted standards of fiscal
185 management.
186 4. Violation of law.
187 5. Failure of the Legislature to fund the K-8 Virtual
188 School Program.
189 6. Other good cause shown.
190 (b) During the term of a contract, the department may
191 terminate the contract on any of the grounds listed in paragraph
192 (a).

193 (c) If a contract is not renewed or is terminated, the K-8
194 virtual school is responsible for all debts of the school.
195 (d) If a contract is not renewed or is terminated, a
196 student who attended the school may apply to and shall be
197 enrolled in another public school.
198 (10) RULES.--The State Board of Education shall adopt
199 rules under ss. 120.536(1) and 120.54 as may be necessary to
200 implement and administer this section.
201 Section 2. This act shall take effect July 1, 2006.

HB 7097

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7097 PCB CCW 06-01 Postsecondary Career Education
SPONSOR(S): Community Colleges & Workforce Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 2326

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Community Colleges & Workforce Committee	7 Y, 0 N	Thomas	Ashworth
1) Education Appropriations Committee		Hamon K.W.H.	Hamon K.W.H.
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill provides articulation mechanisms to improve the transition of students between secondary schools, career centers, and other postsecondary institutions, increases some financial aid to students, and creates a matching facilities grant program for school district career centers.

Articulation Provisions

- Requires that the statewide articulation agreement between secondary and postsecondary include credit earned through high school career and technical education majors and career academies.
- Requires an articulated career path be established by March 2007 for workforce education professions, including criminal justice, business, nursing, allied health and early childhood education. All of these career paths must include:
  - Credit earned in vocational, technical, or career certificate or diploma programs to an Associate in Science (AS) or Associate in Applied Science (AAS) degree program.
  - Credit earned in AS degree to credit in Bachelor of Science degree program.
  - Credit by public and private institutions.
  - Credit for experiential learning associated with minimum training requirements for employment.
- Requires the statewide articulation agreement to include admission of postsecondary vocational, technical, or career education certificate or diploma graduates from career centers.
- Requires the Office of Program Policy Analysis and Government Accountability to assess, evaluate, and report on all existing articulation agreements.
- Provides that a career center or a charter technical career center that offers a postsecondary adult vocational (PSAV) certificate program and has entered into an articulation agreement for the delivery of a related AAS degree program may use the designation "technical college."

Financial Aid Provisions

- Expands Florida Public Student Assistance Grant to postsecondary career certificate programs.
- Creates a GED Success Scholarship for GED completers to enter a career center or community college program that provides a career path to one of the top 15 occupations on targeted occupations lists.

The bill creates a **Career Centers Facilities Enhancement Challenge Grant Program** that provides for a match of private contribution to a school district career center to be eligible for a state match.

See FISCAL COMMENTS for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
Provide limited government - The State Board of Education is given rulemaking authority for the administration of the GED Success Scholarship Program.

Promote personal responsibility – The bill provides an opportunity for students who have received their GED to further their education through the GED Success Scholarship.

Empower families - The bill provides the opportunity for students who receive the GED scholarship to be able to obtain a job and realize economic self-sufficiency.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

General Educational Development (GED) Program
Florida in 2000-2001, had 29,606 dropouts from the educational system. Of those 3,883 (13.12%) went on to take the GED but 12,304 (41.56 %) did not further their education.[1] The fastest-growing, highest–paying jobs will require education beyond high school. The most common reasons that people take the GED test are employment and education. Of the 324,327 people in Southern Regional Education Board (SREB) states who took the GED test in 2000, 31 percent cited employment as the determining factor for taking it.[2]

Career Centers
Currently s. 1001.44, F.S., provides for district school boards and district school boards of contiguous districts to establish or acquire career centers after first obtaining approval from the Department of Education (DOE). Before 2004, the statutory term used for such centers was "technical centers." Career centers are often still referred to as technical centers. Career centers offer postsecondary adult vocational programs (PSAV) that result in a certificate for students that complete the program. Career centers are not degree issuing institutions. Florida currently has 47 such career centers.

Applied Associate in Science Degree
Associate in Applied Science (AAS) degrees are two year technical degrees indicating that a student has been trained in a particular field and is prepared for employment. These degrees are offered at degree issuing intuitions, such as community colleges.

Articulation
The Commissioner of Education was directed by the passing of HB 769 (Chapter 2004-357, L.O.F.) to convene a Career Education Task Force (Task Force) to investigate issues related to workforce or career education. The Task Force chaired by the Lieutenant Governor, held several meetings to discuss workforce related issues. One of the recommendations of the Task Force was strengthening articulation at all levels.

Articulation was also a legislative priority in 2005. HB 6005 required the Department of Education (DOE) to conduct an "articulation audit". As a result of that requirement DOE convened an articulation workgroup composed of representatives from school districts and community colleges in April 2005. The purpose of this workgroup was to look at the issues, review the current status of articulation from PSAV certificates to associate degrees and make recommendations on possible statewide articulation agreements.

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[1] Department of Education statistics 3/01/05
[2] SREB September 2002, Focus on the GED: Who Takes it and Why

The workgroup established a process to include the approval of the Articulation Coordination Committee (ACC).The ACC is appointed by and reports to the Commissioner of Education. The ACC exists to coordinate ways to help students move easily from institution to institution and from one level of education to the next. The workgroup has met on several occasions and recently made a presentation to the ACC to release the results of phase one of the project. This consisted of several recommended PSAV certificate to associate degree statewide articulation agreements. The recommendations should be presented to the State Board of Education in the next month or two for approval.

Statewide Targeted Occupation List and Regional Targeted Occupations List
The statewide list of targeted occupations is determined by the Florida Workforce Estimating Conference (WEC). Section 216.136(a)2., F.S., requires the WEC to review data concerning the local and regional demands for short-term and long-term employment in high-skills/high-wage program jobs, as well as other jobs. The WEC develops the official targeted occupations list based on industry and occupational employment projections and wages prepared by the Labor Market Statistics Office in the Florida Agency for Workforce Innovation. The WEC meets semi-annually and makes recommendations to Workforce Florida, Inc. for use as a guide for establishing Regional Targeted Occupation Lists, which are approved by Workforce Florida, Inc.[3]

Florida Public Student Assistance Grant Program
The Florida Public Student Assistance Grant provides need-based assistance to degree seeking students attending degree granting institutions. The grant is currently not available to school district career centers or charter technical career centers.

Effect of Proposed Changes

Technical College
The bill relating to postsecondary education, authorizes district school boards that have established career centers as part of the district school system to enter into an articulation agreement for the delivery of specified associate in applied science (AAS) degree programs.

The bill authorizes career centers and charter technical career centers that offer a postsecondary adult vocational (PSAV) program designed to articulate into an associate in applied science degree and enters into an articulation agreement for the delivery of such a degree program to use the designation "technical college".

The bill defines a PSAV program as a job preparatory program, excluding continuing workforce education, through which a student receives a vocational certificate upon completion of instruction.

Statewide Articulation
The bill requires that State Board of Education statewide articulation agreements that govern articulation between secondary and postsecondary education include credit earned through high school career and technical education majors and career academies and admission of postsecondary vocational, technical, or career education certificate or diploma graduates from school district career centers or charter technical career centers.

The bill requires the State Board of Education (SBE) to establish an articulated career path for specific workforce education professions including, but not limited to, the program areas of criminal justice, business, nursing, allied health and early childhood education by March 1, 2007. The career path must provide for the articulation of:

- Credit earned in vocational, technical, or career certificate or diploma programs to associate in science degrees or associate in applied science degrees.

[3] See http://www.labormarketinfo.com/wec/index.htm

- Credit earned in associate in science degree programs to credit in baccalaureate degree programs.
- Credit awarded by public and private institutions.
- Credit for experiential learning associated with minimum training requirements for employment.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to collect, review, and conduct an assessment and evaluation of all existing statewide articulation agreements and to report on the results by December 2006.

GED Success Scholarship Program
The bill creates the GED Success Scholarship Program to encourage students who successfully complete a GED program to attend a program offered by an accredited public or private technical or career center or a community college which has been identified by the Department of Education to have a program that provides a career path to one of the top 15 occupations in number of annual openings as listed on the Agency for Workforce Innovation's Florida Statewide Targeted Occupations List or on a regional targeted occupations list at the time of the student's initial enrollment.

DOE is authorized to issue the scholarship to a student who meets all of the following requirements:
- Florida resident for tuition purposes
- Completed all sections of the GED tests
- Enrolled in a program identified by DOE as a program
- Submitted an application for scholarship to the DOE

Subject to the General Appropriations Act, DOE must allocate each year to eligible students one $500 scholarship per student. The scholarship must be transmitted to the director or president of the eligible institutions.

The State Board of Education is authorized to adopt rules for the administration of the scholarship program.

Florida Public Student Assistance Grant Program
The bill expands the need-based Florida Public Student Assistance Grant to postsecondary career certificate programs. The grant will be available to students attending school district career centers or charter technical career centers.

School District Career Center Facility Enhancement Challenge Grant
The bill establishes the School District Career Center Facility Enhancement Challenge Grant Program for the purpose of assisting career centers in building high priority instructional and capital facilities. For the school district to be eligible for a match by a state appropriation, one-third of the total cost of a facility construction project must be raised by the district, through its direct-support organization, from private sources. The state match, subject to the General Appropriations Act, may equal the amount raised up to the cost of the project. The final one-third of funds must be provided from the school district's local capital funds.

If the state match does not equal one-third of the cost, the district must renegotiate the terms of the private contributions with the donors. If the project is terminated, the private donations, plus interest, reverts to the direct support organization, and may be remitted to the donor at the donor's discretion.

After the completion of a project, one-third of any unexpended funds must be reserved for future facility construction projects by the career center that originally received the private contribution. One-third of the unexpended funds must be returned to the General Revenue Fund and one-third must be returned to the school district.

C. SECTION DIRECTORY:

Section 1. Amends s. 1001.44, F.S.; authorizing an articulation agreement for delivery of associate in applied science degree programs by career centers; providing requirements for use of the designation "technical college"; providing a definition.

Section 2. Amends s. 1002.34, F.S.; providing for a charter technical career center to use the designation "charter technical college"; providing a definition.

Section 3. Amends s. 1007.22, F.S.; revising provisions relating to establishment of interinstitutional mechanisms by public postsecondary educational institutions.

Section 4. Amends s. 1007.23, F.S.; revising components of the statewide articulation agreement; revising terminology; requiring the State Board of Education to establish articulated career paths for specific professions; requiring career paths to provide credit for certain programs and experiential learning.

Section 5. Amends s. 1009.50, F.S.; authorizing certain students in postsecondary career certificate programs to receive Florida Public Student Assistance Grants.

Section 6. Creates s. 1009.521, F.S.; creating the GED Success Scholarship Program; providing for administration; providing for the award of scholarships from appropriated funds; providing eligibility criteria; providing for transmittal of funds to eligible institutions; providing for reporting; providing for rulemaking.

Section 7. Creates s. 1011.802, F.S.; establishing the School District Career Center Facility Enhancement Challenge Grant Program; authorizing a school district direct-support organization to solicit funds and establish a separate career center capital facilities matching account for private contributions for instructional facility construction projects; providing for match by state appropriations; providing for a portion of the cost of a facility construction project to be provided from a school district's local capital funds; providing State Board of Education requirements relating to capital outlay budget request for such projects; providing for reversion of funds.

Section 8. Creates new language; requiring the Office of Program Policy Analysis and Government Accountability to assess articulation agreements and identify career center programs that may articulate to certain degree programs; requiring recommendations.

Section 9. Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See FISCAL COMMENTS

2. Expenditures: See FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not applicable.

D. FISCAL COMMENTS:

Florida Public Student Assistance Grant Program (FSAG-Public)
The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 84) for fiscal year 2006-2007 provides $95.3 million for the FSAG-Public. The Department of Education projects that the expansion of eligibility could increase the number of students by 5,233. The department estimates an increased cost of $3.7 million to $7.4 million to cover the expansion of eligibility.

GED Success Scholarship Program
The GED Success Scholarship is subject to the General Appropriations Act. The number of students who would be eligible for the $500 scholarship is not known.

School District Career Center Facility Enhancement Challenge Grant
For the school district to be eligible for a match by a state appropriation, one-third of the total cost of a facility construction project must be raised by the district, through its direct-support organization, from private sources. The state match, subject to the General Appropriations Act, may equal the amount raised up to the cost of the project. The final one-third of funds must be provided from the school district's local capital funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other: None

B. RULE-MAKING AUTHORITY:

The State Board of Education is given rulemaking authority for the administration of the GED Success Scholarship Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Community College and Workforce Committee passed two amendments. The amendments made the following changes.

- Required that the articulation career path for workforce education professions shall include the program area of early childhood education.
- Removed of the awarding of a Florida high school diploma for the requirements of the GED Success Scholarship.

1 A bill to be entitled
2 An act relating to postsecondary education; amending s.
3 1001.44, F.S.; authorizing an articulation agreement for
4 delivery of associate in applied science degree programs
5 by career centers; providing requirements for use of the
6 designation "technical college"; providing a definition;
7 amending s. 1002.34, F.S.; providing for a charter
8 technical career center to use the designation "technical
9 college"; providing a definition; amending s. 1007.22,
10 F.S.; revising provisions relating to establishment of
11 interinstitutional mechanisms by public postsecondary
12 educational institutions; amending s. 1007.23, F.S.;
13 revising components of the statewide articulation
14 agreement; revising terminology; requiring the State Board
15 of Education to establish articulated career paths for
16 specific professions; requiring career paths to provide
17 credit for certain programs and experiential learning;
18 amending s. 1009.50, F.S.; authorizing certain students in
19 postsecondary career certificate programs to receive
20 Florida public student assistance grants; creating s.
21 1009.521, F.S.; creating the GED Success Scholarship
22 Program; providing for administration; providing for the
23 award of scholarships from appropriated funds; providing
24 eligibility criteria; providing for transmittal of funds
25 to eligible institutions; providing for reporting;
26 providing for rulemaking; creating s. 1011.802, F.S.;
27 establishing the School District Career Center Facility
28 Enhancement Challenge Grant Program; authorizing a school

29 district direct-support organization to solicit funds and
30 establish a separate career center capital facilities
31 matching account for private contributions for
32 instructional facility construction projects; providing
33 for match by state appropriations; providing for a portion
34 of the cost of a facility construction project to be
35 provided from a school district's local capital funds;
36 providing State Board of Education requirements relating
37 to capital outlay budget requests for such projects;
38 providing for reversion of funds; requiring the Office of
39 Program Policy Analysis and Government Accountability to
40 assess articulation agreements and identify career center
41 programs that may articulate to certain degree programs;
42 requiring recommendations; providing an effective date.
43
44 Be It Enacted by the Legislature of the State of Florida:
45
46 Section 1. Subsection (4) is added to section 1001.44,
47 Florida Statutes, to read:
48 1001.44 Career centers.--
49 (4) DISTRICT SCHOOL BOARD CAREER CENTER PROGRAM
50 DELIVERY.--
51 (a) A district school board with an established career
52 center as part of the district school system may enter into an
53 articulation agreement for the delivery of specified associate
54 in applied science degree programs.
55 (b) A career center that offers a postsecondary adult
56 vocational program designed to articulate into an associate in

57 applied science degree program and enters into an articulation
58 agreement for the delivery of such an associate in applied
59 science degree program may use the designation "technical
60 college."
61 (c) For purposes of this subsection, "postsecondary adult
62 vocational program" is a job preparatory program, excluding
63 continuing workforce education, through which a student receives
64 a vocational certificate upon completion of instruction.
65 Section 2. Subsection (20) is added to section 1002.34,
66 Florida Statutes, to read:
67 1002.34 Charter technical career centers.--
68 (20) DESIGNATION AS A TECHNICAL COLLEGE.--A charter
69 technical career center that offers a postsecondary adult
70 vocational program designed to articulate into an associate in
71 applied science degree program and enters into an articulation
72 agreement for the delivery of such an associate in applied
73 science degree program may use the designation "technical
74 college." For purposes of this subsection, "postsecondary adult
75 vocational program" is a job preparatory program, excluding
76 continuing workforce education, through which a student receives
77 a vocational certificate upon completion of instruction.
78 Section 3. Subsection (3) of section 1007.22, Florida
79 Statutes, is amended to read:
80 1007.22 Articulation; postsecondary institution
81 coordination and collaboration.--
82 (3) Public postsecondary educational institutions ~~serving~~
83 ~~the same students in a geographic and service area~~ are
84 encouraged to establish appropriate interinstitutional

85 mechanisms to achieve cooperative planning and delivery of
86 academic programs and related services, share a high-cost
87 instructional facility and equipment, coordinate credit and
88 noncredit outreach activities, have access to each other's
89 library and media holdings and services, and provide cooperative
90 campus activities and consultative relationships for the
91 discussion and resolution of interinstitutional issues and
92 problems which discourage student access or transfer.
93 Section 4. Subsections (1) and (3) of section 1007.23,
94 Florida Statutes, are amended to read:
95 1007.23 Statewide articulation agreement.--
96 (1) The State Board of Education shall establish in rule a
97 statewide articulation agreement that governs:
98 (a) Articulation between secondary and postsecondary
99 education, including credit earned through high school career
100 and technical education majors and career academies;
101 (b) Admission of associate in arts degree graduates from
102 community colleges and state universities;
103 (c) Admission of applied technology diploma program
104 graduates from community colleges or career centers;
105 (d) Admission of associate in science degree and associate
106 in applied science degree graduates from community colleges;
107 (e) The use of acceleration mechanisms, including
108 nationally standardized examinations through which students may
109 earn credit;
110 (f) General education requirements and statewide course
111 numbers as provided for in ss. 1007.24 and 1007.25; ~~and~~
112 (g) Articulation among programs in nursing; and~~.~~

113 (h) Admission of postsecondary vocational, technical, or
114 career certificate or diploma graduates from school district
115 career centers or charter technical career centers.
116 (3) The articulation agreement must guarantee the
117 statewide articulation of appropriate workforce education
118 ~~development~~ programs and courses between school districts and
119 community colleges and specifically provide that every applied
120 technology diploma graduate must be granted the same amount of
121 credit upon admission to an associate in science degree or
122 associate in applied science degree program unless it is a
123 limited access program. Preference for admission must be given
124 to graduates who are residents of Florida. By March 1, 2007, the
125 State Board of Education shall establish an articulated career
126 path for specific workforce education professions, including,
127 but not limited to, the program areas of criminal justice,
128 business, nursing, allied health, and early childhood education.
129 The career paths shall provide for the articulation of:
130 (a) Credit earned in vocational, technical, or career
131 certificate or diploma programs to associate in science degrees
132 or associate in applied science degrees.
133 (b) Credit earned in associate in science degree programs
134 to credit in baccalaureate degree programs.
135 (c) Credit awarded by public and private institutions.
136 (d) Credit for experiential learning associated with
137 minimum training requirements for employment.
138 Section 5. Paragraph (a) of subsection (2) of section
139 1009.50, Florida Statutes, is amended to read:

140 1009.50 Florida Public Student Assistance Grant Program;
141 eligibility for grants.--
142 (2)(a) State student assistance grants through the program
143 may be made only to degree-seeking students who enroll in at
144 least 6 semester hours, or the equivalent per term, or students
145 who enroll in a postsecondary career certificate program of at
146 least 450 clock hours, and who meet the general requirements for
147 student eligibility as provided in s. 1009.40, except as
148 otherwise provided in this section. The grants shall be awarded
149 annually for the amount of demonstrated unmet need for the cost
150 of education and may not exceed an amount equal to the average
151 prior academic year cost of tuition fees and other registration
152 fees for 30 credit hours at state universities or such other
153 amount as specified in the General Appropriations Act, to any
154 recipient. A demonstrated unmet need of less than $200 shall
155 render the applicant ineligible for a state student assistance
156 grant. Recipients of the grants must have been accepted at a
157 state university, ~~or~~ community college, school district career
158 center, or charter technical career center authorized by Florida
159 law. A student is eligible for the award for 110 percent of the
160 number of credit hours required to complete the program in which
161 enrolled, except as otherwise provided in s. 1009.40(3).
162 Section 6. Section 1009.521, Florida Statutes, is created
163 to read:
164 1009.521 GED Success Scholarship Program.--
165 (1) The GED Success Scholarship Program is created to
166 establish a scholarship program to encourage students who
167 successfully complete a GED program to attend a program offered

168 by an accredited public or private technical or career center or
169 a community college program identified by the Department of
170 Education as a program that provides a career path to one of the
171 top 15 occupations in number of annual openings as listed on the
172 Agency for Workforce Innovation's Florida Statewide Targeted
173 Occupations List or on a regional targeted occupations list at
174 the time of the student's initial enrollment.
175 (2) The scholarship program shall be administered by the
176 department pursuant to the requirements of this section and
177 rules of the State Board of Education.
178 (3) For each year in which funds are appropriated in the
179 General Appropriations Act, the department shall allocate funds
180 to eligible students in the amount of one $500 scholarship per
181 eligible student. The scholarships shall be awarded by the
182 department on a first-come, first-served basis to eligible
183 recipients until all funds specifically designated for the GED
184 Success Scholarships for that fiscal year have been allocated.
185 (4) A student who meets all of the following requirements
186 is eligible to receive a scholarship pursuant to this section:
187 (a) The student is a Florida resident for tuition purposes
188 pursuant to s. 1009.21.
189 (b) The student has successfully completed all sections of
190 the GED tests.
191 (c) The student has enrolled in a program identified by
192 the department as a program in an accredited public or private
193 technical or career center or a community college that provides
194 a career path to one of the top 15 occupations in number of
195 annual openings as listed on the Agency for Workforce

196 Innovation's Florida Statewide Targeted Occupations List or on a
197 regional targeted occupations list at the time of the student's
198 initial enrollment.
199 (d) The student has submitted an application for the
200 scholarship to the department, in the manner prescribed by the
201 department, after December 1 for the following school year and
202 before June 1 of the year in which funding is requested.
203 (5)(a) Payment of GED Success Scholarships shall be
204 transmitted to the director or president of the eligible
205 institution, or his or her representative, in advance of the
206 registration period. Institutions shall notify students of the
207 amount of their awards.
208 (b) Each participating institution shall report to the
209 department by the established date the eligible students to whom
210 scholarship moneys were disbursed each academic term. Each
211 institution shall also report to the department necessary
212 demographic and eligibility data for such students.
213 (c) Each accredited private institution that receives
214 moneys through the GED Success Scholarship Program shall prepare
215 a biennial report that includes a financial audit, conducted by
216 an independent certified public accountant, of the institution's
217 administration of the program and a complete accounting of the
218 moneys allocated to the institution for the program. The report
219 shall be submitted to the department no later than March 1 of
220 every even-numbered year.
221 (6) The State Board of Education may adopt rules pursuant
222 to ss. 120.536(1) and 120.54 relating to the administration of
223 the scholarship program.

224 Section 7. Section 1011.802, Florida Statutes, is created
225 to read:
226 1011.802 School District Career Center Facility
227 Enhancement Challenge Grant Program.--
228 (1) There is established the School District Career Center
229 Facility Enhancement Challenge Grant Program for the purpose of
230 assisting career centers in building high priority instructional
231 capital facilities consistent with s. 1001.44, including common
232 areas connecting such facilities. The direct-support
233 organizations that serve the school districts may solicit gifts
234 from private sources which are eligible for state matching funds
235 for capital facilities. For purposes of this section, private
236 sources of funds shall not include any federal, state, or local
237 government funds that a school district may receive.
238 (2) The School District Career Center Facility Enhancement
239 Challenge Grant Program shall provide funds to match private
240 contributions for the development of high priority instructional
241 capital facilities, including common areas connecting such
242 facilities, within the career centers.
243 (3) Within the direct-support organization of each school
244 district, a separate career center capital facilities matching
245 account must be established for the purpose of providing
246 matching funds from the direct-support organization's
247 unrestricted donations or other private contributions for the
248 development of high priority instructional capital facilities,
249 including common areas connecting such facilities. The
250 Legislature may appropriate funds for distribution to a school
251 district after matching funds are certified by the direct-

252 support organization and school district to the Department of
253 Education. The Public Education Capital Outlay and Debt Service
254 Trust Fund shall not be used as the source of the state match
255 for private contributions.
256 (4) A project may not be initiated unless all private
257 funds for planning, construction, and equipping the facility
258 have been received and deposited in the direct-support
259 organization's matching account and the state's share for the
260 minimum amount of funds needed to begin the project has been
261 appropriated by the Legislature. The Legislature may appropriate
262 the state's matching funds in one or more fiscal years for the
263 planning, construction, and equipping of an eligible facility.
264 However, these requirements shall not preclude the school
265 district or direct-support organization from expending available
266 funds from private sources to develop a prospectus, including
267 preliminary architectural schematics or models, for use in its
268 efforts to raise private funds for a facility. Additionally, any
269 private sources of funds expended for this purpose are eligible
270 for state matching funds if the project is awarded grant funds
271 under this section.
272 (5) To be eligible to participate in the School District
273 Career Center Facility Enhancement Challenge Grant Program, a
274 school district, through its direct-support organization, shall
275 raise contributions from private sources equal to one-third of
276 the total cost of a facility construction project. After raising
277 such contributions, the school district shall be eligible for a
278 match by a state appropriation equal to the amount raised for a
279 facility construction project up to one-third of the cost of the

280 project, subject to the General Appropriations Act. Another one-
281 third of the total cost must be provided from the school
282 district's local capital funds.
283 (6) If the state's share of the required match is
284 insufficient to meet the requirements of subsection (5), the
285 school district shall renegotiate the terms of the contribution
286 with the donors. If the project is terminated, each private
287 donation, plus accrued interest, shall revert to the direct-
288 support organization for remittance to the donor at the donor's
289 discretion.
290 (7) By September 1 of each year, the State Board of
291 Education shall transmit to the Legislature, in the capital
292 outlay budget request, a list of projects that meet all
293 eligibility requirements to participate in the School District
294 Career Center Facility Enhancement Challenge Grant Program and a
295 budget request that includes the recommended schedule necessary
296 to complete each project.
297 (8) In order for a project to be eligible under this
298 program, it must be survey-recommended under the provisions of
299 s. 1013.31, included in the school district's 5-year capital
300 improvement plan, and receive prior approval from the State
301 Board of Education.
302 (9) Any project funds that are unexpended after a project
303 is completed shall revert to the school district direct-support
304 organization's career center capital facilities matching
305 account. One-third of such unexpended funds shall be reserved
306 for the school district career center that originally received
307 the private contribution for the purpose of providing private

308 matching funds for future facility construction projects as
309 provided in this section. One-third of such unexpended funds
310 shall be returned to the General Revenue Fund. One-third of such
311 unexpended funds shall be returned to the school district.
312 (10) The surveys, architectural plans, facility, and
313 equipment shall be the property of the participating school
314 district.
315 Section 8. (1) As part of determining the appropriate
316 courses and programs for statewide articulation, the Office of
317 Program Policy Analysis and Government Accountability shall
318 collect, review, and conduct an assessment of all existing
319 statewide articulation agreements and all existing articulation
320 agreements between school district career centers or charter
321 technical career centers and community colleges by September 30,
322 2006.
323 (2) The Office of Program Policy Analysis and Government
324 Accountability shall use the information compiled pursuant to
325 subsection (1) to evaluate the effectiveness of local and
326 statewide interinstitutional articulation agreements and to
327 identify other postsecondary technical or career programs within
328 a school district career center or charter technical career
329 center that may articulate to an associate in science degree
330 program or an associate in applied science degree program on an
331 individual course or block basis for statewide
332 interinstitutional articulation agreements. By December 31,
333 2006, the Office of Program Policy Analysis and Government
334 Accountability shall submit a report to the President of the
335 Senate and the Speaker of the House of Representatives.

336 Section 9. This act shall take effect July 1, 2006.

HB 7103

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7103 PCB CI 06-03 Charter Schools
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 2424

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee	7 Y, 0 N, w/CS	Hassell	Kooi
1) Education Appropriations Committee		Eggers MS	Hamon K.W.H.
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill substantially amends provisions of s. 1002.33, F.S. related to charter schools. The bill adds new fiscal accountability requirements related to the charter school's annual financial report and new academic accountability requirements for charter schools graded D or F. The bill revises the responsibilities of the Department of Education (DOE), of charter school sponsors, and charter school governing boards.

The bill makes changes to the application process, review and appeal, the initial term and renewal of charter agreements, and procedures for nonrenewal, termination and immediate termination of charter schools. It requires the DOE to offer technical assistance to charter school applicants, to develop a uniform, on-line charter school accountability report and a standard charter and renewal format, and to regularly convene a Charter School Review Panel.

As amended, the requires district school boards to make timely payments to charters and authorizes the Commissioner of Education to withhold lottery funds from a school district that repeatedly fails to do so. Furthermore, the bill authorizes the State Board of Education to impose fines or withhold lottery funds for districts that violate the procedural requirements for charter school application, termination, or nonrenewal appeals.

The bill adds exceptional student education evaluation services to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request.

The bill extends educator professional liability coverage to all full-time charter school instructional personnel, eliminates priority given to transitioning students of military families, provides transportation funding to eligible charter schools, and revises capital outlay funding for charter schools.

The bill makes conforming changes to the provisions of law related to financial management.

The bill authorizes lab schools to participate in student transportation funding, for which the estimated cost is $764,000. See the FISCAL COMMENTS section of the analysis.

The bill provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires the Department of Education (DOE) to staff the Charter School Review Panel and to create a standard charter format and charter renewal format to be used as guidelines by charter school sponsors.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Legislature authorized charter schools in 1996. Since their introduction in 1996, the number of charter schools operating in Florida has grown from 5 to 333.[1] In 1996, the 5 schools served 574 students and in 2005-06 the 333 schools currently serve approximately 92,158 students.[2] The legislative principles guiding Florida charter schools are to meet high standards of student achievement while increasing parental choice within the public school system, align responsibility with accountability, and provide parents with sufficient information relating to their child's reading level and learning gains.[3]

As provided in s. 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under current law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application.[4] Additionally, four state universities are currently authorized to grant charters and sponsor development research (laboratory) schools created under 1002.32, F.S.[5] The charter is an agreement signed by the governing body of the school and the sponsor that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Charter schools are often free from many state and local regulations and mandates, but are held accountable to the sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

Effects of Proposed Changes

Purpose of Charter Schools

The statutory purpose of charter schools is to improve student learning and academic achievement, increase learning opportunities of all students, create new professional opportunities for teachers, encourage the use of innovative learning methods, and measure learning outcomes.[6] Currently, charter schools may fulfill the following purposes: create innovative measurement tools, provide rigorous competition within the public school district, expand the capacity of the public school system, and mitigate the educational impact created by the development of new residential dwelling units.

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[1] www.floridaschoolchoice.org
[2] *Id.*
[3] FLA. STAT. ch. 1002.33(2)
[4] FLA. STAT. ch. 1002.33(5),(6)
[5] S. 1002.32(2), F.S., provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.
[6] s. 1002.33(2)(b), F.S.

As amended, the bill requires charter schools to improve student learning and academic achievement, increase learning opportunities for all students with emphasis on low-performing students, encourage the use of innovative learning methods, and to require the measurement of learning outcomes. Also, it revises the list of purposes that a charter school may fulfill to include the option of creating new professional opportunities for teachers.

Application for Charter Status

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.[7] Alternatively, a public school that has been in operation for at least two years may convert to a charter school pursuant to an application by the district school board, the principal, teachers, parents, and/or the school advisory council.[8] The bill clarifies that a public school-within-a-school that is designated as a school by the district school board may also submit an application to convert to charter status.

Under current law, district school boards must notify conversion charter school applicants that their application has been denied within 30 days of the school board meeting denying their application. On the other hand, district school boards only have 10 days after the meeting to notify charter school applicants that their application has been denied. Thus, the bill makes consistent the requirement that district school boards notify both conversion charter school applicants and charter school applicants within 10 days of the meeting denying their application.

Sponsor Duties

Currently, only a district school board may sponsor a charter school in the county where the district school board has jurisdiction.[9] However, a state university may grant a charter to a lab school in which case the university is considered to be the charter lab school's sponsor.[10] Sponsor duties include, but are not limited to, monitoring and reviewing the charter school's progress towards the established goals, monitoring the charter school's revenues and expenditures, and ensuring that the charter school participates in the state's education accountability system.[11]

The bill provides that the sponsor's policies do not apply to charters schools unless they are mutually agreed to by the sponsor and the charter school. Additionally, sponsors must provide charter schools with reasonable and specific justification before imposing additional reporting requirements on charter schools. These provisions provide additional measures to ensure that sponsors do not place unnecessary requirements on charter schools.

Application Process and Review

Section 1002.33(6), F.S., provides for the application process and review of a charter school. A person or entity wishing to open a charter school prepares and submits an application to be considered by a district school board on or before September 1 of each calendar year. Applications are required to be approved or denied by majority vote within 60 calendar days after the application is received, unless the applicant and the district school board mutually agree to postpone the vote to a specific date. If the district school board fails to act on the application then the applicant may appeal to the bill. If the district school board denies an application, the board must notify the applicant in writing and cite specific reasons based upon good cause for denying the application.

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[7] s. 1002.33(3), F.S.
[8] *Id.*
[9] s. 1002.33(5), F.S.
[10] *Id.*
[11] s. 1002.33(5)(b), F.S.

Current law provides charter school applicants with procedures for appeal to the Charter School Appeal Commission if the charter has been denied, not renewed, or terminated or if mediation has failed to resolve disputes over contract negotiations.[12] The Charter School Appeal Commission may receive and review documents forwarded to the SBE, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. Decisions by the Charter School Appeal Commission are not subject to the provisions of the Administrative Procedures Act. The SBE must consider the commissioner's recommendation; however, the SBE is not bound by the recommendation.

Subsequent to the approval of the charter school application, the DOE is required to provide mediation services for any dispute relating to the charter's provisions and any dispute relating to the approved charter, except for disputes relating to charter school application denials. A dispute, except a dispute pertaining to charter school application denial, may be appealed to an administrative law judge if the Commissioner of Education determines that the dispute cannot be settled through mediation.[13]

The bill provides that beginning with the 2007-2008 school year, the charter school application deadline is changed from September 1 to August 1. Also, in instances where the district school board denies an application, the bill requires the board to provide the applicant and the DOE with supporting documentation stating the specific reason for the denial of the charter application.

The bill clarifies that the SBE's decision is final action subject to judicial review in the district court of appeal and that an administrative law judge may not rule on issues relating to the denial of an application or on issues relating to the termination or nonrenewal of a charter. Also, the bill removes the provision that allows disputes over contract negotiations that have not been resolved through mediation to go before the Charter School Appeal Commission.

The bill directs the DOE to offer training and technical assistance to charter school applicants on issues related to the financial and business side of charter school operation. According to OPPAGA, charter schools face considerable challenges related to start-up and facilities related costs that put charter schools at risk for chronic financial deficits. More specifically, new charter schools may underestimate the high start-up and facilities related costs associated with opening a charter school and are unable to obtain sufficient funds to cover these costs associated with opening.[14] Thus, the bill requires that the assistance offered by the DOE must address estimating start-up costs, projecting enrollment, and identifying the types and amounts of state and federal financial assistance the charter school will be eligible to receive.

Charter Agreement

A charter is a written contractual agreement between the sponsor and the charter school's governing board that sets forth the terms and conditions for the operation of a charter school. The initial term of a charter may be 3, 4, or 5 years and is to be renewed every 5 years if the criteria have been successfully accomplished and if none of the grounds for nonrenewal are documented. For easier access to long-term financial resources for facility construction, current law allows a charter school operated by a municipality or other public entity or a charter lab school to be eligible for up to a 15-year charter. However, a charter school that is operated by a private, not-for-profit, s. 501(c)(3) status corporation is only eligible for up to a 10-year charter.

As amended, the bill requires that initial proposed contract be provided to the charter school within 60 days and the applicant and the sponsor then have 75 days thereafter to negotiate the final terms of the contract. It requires the proposed charter to be provided to the charter school at least 7 days prior to the vote of the sponsor. This gives the charter school an opportunity to review the proposed charter

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[12] s. 1002.33(6), F.S.
[13] *Id.*
[14] OPPAGA Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 7.

and to ensure that all provisions of the agreement have been codified in the charter. Also, the bill changes the initial charter term to 4 or 5 years and revises the provision so that a charter school operated by a private, not-for-profit, s. 501(c)(3) status corporation is also eligible for up to a 15-year charter.

The bill provides that a charter is to be automatically renewed if the criteria have been successfully accomplished and if none of the grounds for nonrenewal were documented. Additionally, the bill provides that the 15-year charter renewal shall be granted if the school has received a grade of "A" or "B" in 3 of the past 4 years and is not in a state of financial emergency or a deficit financial position.

Financial Oversight

Lack of expertise in education budgeting and finance and with government accounting conventions are additional challenges facing charter schools. Identifying and assisting charter schools with deteriorating financial conditions is challenging without complete, accurate, and timely financial data.[15] According to an OPPAGA report, it is important for the DOE to take a more proactive approach with charter schools in their first years of operation and to have more effective methods to identify and assist charter schools either at risk of financial difficulty or in need of assistance to overcome financial deficit.[16] Furthermore, in the November 1, 2004-October 31, 2005 Florida Auditor General Annual Report[17], the Auditor General determined that the laws governing charter schools do not contain comparable reporting requirements for charter schools operating with deteriorating financial conditions.[18] Therefore, the Auditor General recommended that, at a minimum, the auditor notify the governing board of the charter school of the deficit financial position and that those charter schools should be required to file a detailed financial recovery plan with the sponsoring district school board.[19]

The bill addresses the OPPAGA findings and the Auditor General recommendations by detailing procedures the charter school, the sponsor, and the charter school governing board must follow when a state of financial emergency exists. The charter is required to specify that the auditors of a charter school whose internal audit or an annual financial audit reveals a state of financial emergency or deficit financial position must notify the charter governing board, the sponsor, and the DOE. [20] The auditor is also required to report, within 7 working days, such findings in the form of an exit interview to the principal or principal administrator of the charter school and the chair of the governing board. Charter schools that are found to be in a state of financial emergency must file a detailed financial recovery plan with the sponsor and the DOE is required to establish guidelines for the development of such plans. The governing board is also required to maintain oversight of the charter school by ensuring an annual audit report is conducted, reviewing and approving the report and monitoring a financial recovery plan, if implemented.

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[15] OPPAGA Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 1.

[16] *Id.* at 11. OPPAGA recommended clarifying the Department of Education's role to include the following responsibilities: ensuring that technical assistance is available to charter schools for developing business plans and estimating costs and income is available; ensuring that training and technical assistance is provided for administrators in planning, budget, management, and financial reporting; developing a monitoring system that includes a comprehensive list of financial indicators to be used for the early identification of charter schools at greatest risk for financial difficulty; ensuring that training and technical assistance is provided to charter schools in deteriorating financial conditions; annually reporting schools identified as being at risk for financial difficulties and the actions that have been taken to assist the school; and developing a modified annual financial report for charter schools with additional guidelines for expenditure reporting.

[17] The Auditor General Annual Report Numbers 2005-054 and 2006-034, *Report on Significant Findings and Financial Trends in Charter Schools and Charter Technical Career Center Audit Reports Prepared by Independent CPAs,* November2004 – October 2005.

[18] FLA. STAT. ch. 219.39(5), requires the auditor of a local governmental entity or district school board to notify each member of the governing board for which deteriorating financial conditions exist that may result in a state of financial emergency as defined by Section 218.503, Florida Statutes.

[19] The Auditor General Annual Report Numbers 2005-054 and 2006-034; OPPAGA at 12.

[20] *See* s. 218.503, F.S., Determination of financial emergency

Nonrenewal or Termination of Charter

Current law provides that sponsors may choose not to renew or terminate the charter if the charter school fails to participate in the state's education accountability system, fails to meet generally accepted standards of fiscal management, violates a state law, or if other good cause is shown.[21] Sponsors are required to notify the governing body of the school of the proposed action at least 90 days prior to the nonrenewal or termination. The charter school may request, within 14 days after receiving the notice, an informal hearing before the sponsor. The informal hearing must be conducted within 30 days by the sponsor. The charter school's governing board may appeal the sponsor's decision to not renew or terminate within 14 days after receiving the sponsor's decision.

The PCB specifies that a sponsor may choose not to renew, terminate or immediately terminate a charter based on the sponsor's determination that the health, safety, and welfare of the students is threatened rather than for the current law provision of good cause shown. As amended, it also provides the sponsor with the authority to not renew or terminate a charter for material breach or repeated violations of the term of the charter. In the event of nonrenewal, termination, or immediate termination, the bill revises the notification requirements and appeals procedure so that they are consistent with the procedures that a sponsor and an applicant must follow when an application for charter status has been denied.[22]

Currently, when a charter is not renewed or is terminated, the school is dissolved and any unencumbered public funds, except capital outlay funds, from the charter school revert to the district school board. The unencumbered capital outlay funds revert to the DOE for redistribution among eligible schools. The bill revises this provision so that the unencumbered public funds, except capital outlay funds and federal charter school program grant funds, revert to the sponsor when a charter is not renewed or is terminated and the school is dissolved. Likewise, the unencumbered federal charter school program grant funds would revert to the DOE for redistribution among eligible schools.

Charter School Requirements

Charter school requirements include, but are not limited to, the following: charter schools must be nonsectarian in their programs, admission policies, employment practices, and operations; charter schools must be accountable to their sponsors for performance; charter schools must meet all applicable state and local health, safety, and civil rights requirements; charter schools must provide for an annual financial audit; charter schools must maintain all financial records which constitute their accounting system; charter schools' governing boards must annually adopt and maintain an operating budget, exercise continuing oversight on charter school operations, and annually report progress to their sponsor; and charter schools must provide instruction for at least the number of days required by law.[23]

The bill expands the duties of governing boards relating to academic oversight for charter schools that receive a grade of D or F. The director and a representative of the governing board of a charter school that has received a school grade of D are required to appear before the sponsor at least once a year to present information on each contract component having noted deficiencies. The sponsor is also required to communicate at the meeting the services provided to the school to help address the noted deficiencies. The governing body of a charter school that receive a grade of D for 2 consecutive years or a grade of F is required to submit to the sponsor a school improvement plan to raise student achievement. The governing body is required to appear before the sponsor at least once a year to present information on the corrective strategies that are being implement pursuant to the school improvement plan. The bill establishes requirements for the school improvement plan and makes

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[21] s. 1002.33(8), F.S.
[22] *see* Application for Charter Status on p. 3
[23] S. 1002.33(9), F.S.

available corrective actions that charter school governing boards must follow if there is not an improvement in student performance.

The bill requires the DOE to offer technical assistance and training to the governing board and establish guidelines for developing, submitting, and approving school improvement plans. Also, the DOE is required to develop a uniform, on-line annual accountability report for charter schools to complete. The governing board of the charter school is required to use this standard form to report its annual progress to the Commissioner of Education.

Funding of Charter School Student Enrollment

Currently, students enrolled in a charter school are funded in the same way as all other public school students in the school district. Thus, each charter school must report its student enrollment to the school district and the school district must include each charter school's student enrollment in its report of student enrollment that is submitted to the state in October and February of each school year.[24] Current law provides that district school boards are required to make every effort to ensure that charter schools receive timely and efficient reimbursement.[25]

The bill requires the district school boards to make timely and efficient payments and reimbursements to charter schools and allows the Commissioner of Education to withhold lottery funds if districts repeatedly fail to do so. Further, if a warrant for payment is not issued within 10 working days, rather than the current law requirement of 30 working days, after receipt of funding by the district school board then the district school board is required to pay the charter school the amount of the scheduled disbursement and interest at a rate of 5% per month. This changes the interest rate from 1% to 5% per month. Also, the interest rate is calculated on a daily basis on the unpaid balance from the expiration of the 10-day period until the warrant is issued. Increasing the interest rate may influence school district to make timely disbursements.

The bill provides the SBE authority to impose a fine, not to exceed $10,000, or withhold lottery funds for districts that violate the procedural requirements for charter school application, termination, and non-renewal appeals regardless of whether the violation effects the fairness of the appeal process or the correctness of the action taken by the district. The bill provides for procedural requirements for the imposition of such penalties. However, the SBE is required to provide the district with notice of the proposed fine and the opportunity to be heard at a subsequent meeting of the SBE prior to the imposition of the fine or withholding of lottery funds.

Facilities

The bill clarifies that a start-up charter school, not the current law requirement of a charter school, is required to utilize facilities that comply with the Florida Building Code[26] except for the State Requirements for Educational Facilities (SREF). The bill requires conversion charter schools to comply with SREF if the district and the charter school have entered into a mutual management plan with sufficient funding from the district to comply with SREF.

Current law provides that any facility or a portion of the facility that is used to house an approved charter school is exempt from ad valorem taxes pursuant to s. 196.1983.[27] The bill specifies that the following facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations: libraries, community service facilities, museums, performing arts facilities, theatres, cinemas, churches, community colleges, colleges, and universities.

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[24] s. 1002.33(17), F.S.
[25] s. 1002.33(17)(d), F.S.
[26] Pursuant to chapter 533.
[27] s. 1002.33(18)(c), F.S.

Current law provides that charter school facilities are exempt from assessments of fees for building permits and licenses and impact fees or service availability fees. [28] The bill provides that charter school facilities are also exempt from payment of fees for occupational licenses.

Any facility or property of the district school board that becomes available because it is surplus, marked for disposal, or otherwise unused is made available to the charter school on the same basis as it is made available to other public schools in the district.[29] The bill provides that the charter school, not the charter organizer, is required to agree to reasonable maintenance provisions that ensure that the facility is maintained in a manner similar to district school board standards.

Services

Currently, a school district provides the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.[30] Administrative fees for the above services that may be charged by the district to a charter school are 5% of the available per student FEFP funds.

The bill provides for exceptional student education evaluation services in addition to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request. As amended, the bill clarifies that sponsors are required to provide charter schools the performance data for each student in their school in the same manner provided to other public schools in the district. The bill allows school districts to withhold 5% or less of the administrative fee.

Capital Outlay Funding

Current law provides that the year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education is required to allocate the funds among eligible schools.[31] To be eligible for a funding allocation, a charter school must be in operation for 3 or more years, be an expanded feeder chain of a charter school within the same school district that is currently receiving capital outlay funds, or be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; have financial stability for future operation as a charter school; have satisfactory student achievement; have received final approval from their sponsor for operation during that year; and serve students in facilities that are not provided by the charter school's sponsor.[32]

Section 1013.62(7), F.S., details how capital outlay funds are required to be allocated if the funds received are no greater than the funds appropriated in 2002-2003, if the funds are less than the funds appropriated in 2002-2003, and if the funds are greater than the funds appropriated in 2002-2003.

If the capital outlay appropriation is greater than the funds appropriated in 2002-2003, the bill changes the funding allocation for an eligible school that "has satisfactory student achievement" to a school that has received a school grade of "A" or "B", pursuant to s. 1008.34, F.S., during 3 of the last 4 school years.

Charter schools with long-term debt or long-term lease are the first priority for allocating the excess amount of the 2002-2003 appropriation. The excess amount is required to be prorated among these

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[28] Exemption from assessment of fees for building permits except as provided in s. 553.80, F.S.
[29] s. 1002.33(18)(f), F.S.
[30] s. 1002.33(20), F.S.
[31] s. 1013.62, F.S.
[32] *Id.*

schools to the extent that the initial allocation is insufficient to provide one fifteenth of the cost-per-student station and second priority to be all other eligible charter schools.

Current law provides that capital outlay funds may be used by the charter school's governing body for the following purposes: purchase of real property; construction of school facilities; purchase, lease-purchase, or lease of permanent or relocatable school facilities; purchase of vehicles for transportation of students; and renovation, repair, and maintenance of school facilities owned by the charter school or being purchased or lease-purchase by the charter school. [33] The bill provides that capital outlay funds may also be used for furnishing and for the purchasing of equipment for charter school facilities.

Public Information on Charter Schools

The DOE is required to provide information directly to the public and through sponsors regarding how to form and operate a charter school and how to enroll in a charter school.[34] The bill provides that in addition to the standard application format, the DOE is required to create a standard charter format and standard charter renewal format that are to be used as guidelines by charter school sponsors.

Charter School Review Panel and Legislative Review

The bill provides that the DOE is required to staff and regularly convene a Charter School Review Panel to review issues, practices, and policies relating to charter schools. The bill requires a review of the operation of charter schools during the 2010 Regular Session of the Legislature.

Personnel

Beginning July 1, 2007, the bill provides for educator professional liability coverage for all full-time charter school instructional personnel, requires that educator professional liability coverage be extended at cost to all part-time charter school instructional personnel, and requires that educator professional liability coverage be extended at cost to all administrative personnel.

Student Preference

The bill eliminates the priority given to transitioning students from military families on admission to charter schools.

Charter Lab Schools

The bill provides that a charter lab school that attempts to fulfill its requirement to have a representative student population[35] and elects to provide student transportation to accomplish this is eligible for transportation funding pursuant to s. 1001.68, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.33, F.S., relating to charter schools; revising the purpose of charter schools; revising the charter school application process and sponsor duties; requiring the DOE to provide technical assistance to charter school applicants; revising provisions relating to charter agreement, including nonrenewal or termination of charter; revising charter school requirements, including procedural requirements for charter schools found to be in a state of financial emergency; revising duties of charter school governing boards; providing procedures for charter schools to raise student achievement; revising provisions relating to funding of charter school student enrollment; authorizing zoning

[33] s. 1013.62(2), F.S.
[34] s. 1002.33(21), F.S.
[35] Pursuant to 1002.32(4), F.S.

and land use designations; revising exemptions; revising provisions relating to services and the administrative fee requirement.

Section 2. Amends s. 218.39, F.S., adding references relating to charter schools and annual financial audit reports.

Section 3. Amends s. 218.50, F.S., revising the short title of ss. 218.50-218.504, F.S., to include charter schools.

Section 4. Amends s. 218.501, F.S., adding a charter school reference.

Section 5. Amends s. 218.503, F.S., adding references relating to charter schools and the determination of financial emergency.

Section 6. Amends s. 218.504, F.S., adding references relating to charter schools and the cessation of state action.

Section 7. Amends s. 11.45, F.S., conforming provisions relating to charter schools.

Section 8. Amends s. 166.271, F.S., correcting cross references.

Section 9. Amends s. 1002.32, F.S., providing that charter lab schools are eligible for transportation funding.

Section 10. Amends s. 1003.05, F.S., removing charter school reference from assistance to transitioning students from military families.

Section 11. Amends s. 1012.74, F.S., requiring educator professional liability insurance to cover charter school personnel.

Section 12. Amends s. 1013.62, F.S., revising provisions related to capital outlay funding.

Section 14. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In the 2005-06 fiscal year, 39.37% of public school students were reported for student transportation funding, earning an average per student funding amount of $434. Lab schools would earn $764,113 in student transportation funding if 39.37% of the 4,472 lab school FTE students were eligible for transportation funding in the 2005-06 fiscal year. The appropriation for the student transportation categorical is appropriated annually in the General Appropriations Act, and would have to be increased $764,113 so that the funds to the 67 school districts are not decreased due to the inclusion of lab schools.

The Department of Education is required to staff the Charter School Review Panel and to create a uniform on-line accountability report for charter schools, and a standard charter format and charter renewal format. The estimated administrative costs of these requirements are indeterminate at this time.

The bill adds exceptional student education evaluation services to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request. The additional cost to school districts to provide these services are indeterminate but believed to be small.

Section 1013.62(7), F.S., details how capital outlay funds are required to be allocated to the charter schools. If the capital outlay appropriation is greater than the funds appropriated in 2002-2003, the bill changes the funding allocation for an eligible school that "has satisfactory student achievement" to a school that has received a school grade of "A" or "B", pursuant to s. 1008.34, F.S., during 3 of the last 4 school years. Charter schools with long-term debt or long-term lease are the first priority for allocating the excess amount of the 2002-2003 appropriation. The excess amount is required to be prorated among these schools to the extent that the initial allocation is insufficient to provide one fifteenth of the cost-per-student station and second priority to be all other eligible charter schools.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

   The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

2. Other:

   None

B. RULE-MAKING AUTHORITY:

This bill does not create any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Choice and Innovation Committee adopted seven amendments and reported the bill favorably as amended. The amendments did the following:

Amendment 1 – Clarifies that sponsors are required to provide charter schools the student performance data for each student in their charter school in the same manner provided to other public schools in the district.

Amendment 2- Restores the current law requirement that charter schools must require the measurement of learning outcomes.

Amendment 3- Technical change to conform to Amendment 3.

Amendment 4 – Revises the length of time that charter school applicants and sponsors have to negotiate the provisions of the final charter contract.

Amendment 5 – Changes the initial term of the contract to 4 or 5 years.

Amendment 6 – Provides that the sponsor may not renew or terminate a contract for material breach or repeated violations of the terms of the charter.

Amendment 7 – Clarifies that the Commissioner of Education may withhold lottery fund from school districts for repeatedly failing to make timely and efficient payments to charter schools.

This analysis is drawn to the bill as amended.

1 A bill to be entitled
2 An act relating to charter schools; amending s. 1002.33,
3 F.S.; revising charter school purposes; modifying
4 provisions relating to duties of sponsors, the application
5 process, denial of an application, and review of appeals;
6 requiring the Department of Education to provide technical
7 assistance to charter school applicants; providing
8 requirements relating to charter contracts; providing
9 procedures when a state of financial emergency exists;
10 revising provisions relating to charter terms and renewal;
11 revising nonrenewal and termination provisions, including
12 procedures for immediate termination; revising provisions
13 relating to the reversion of funds; revising duties of a
14 charter school governing body relating to audits;
15 requiring the department to develop a uniform
16 accountability report; providing procedures with respect
17 to charter schools with deficiencies; requiring a school
18 improvement plan to raise student achievement; providing
19 for probation and corrective actions; revising provisions
20 relating to payment and reimbursement to a charter school
21 by a school district and authorizing the withholding of
22 lottery funds under certain circumstances; authorizing the
23 State Board of Education to impose a fine on or withhold
24 lottery funds from a school district for certain
25 violations; requiring conversion charter schools to comply
26 with certain facility requirements under specific
27 situations; authorizing certain zoning and land use
28 designations for certain charter school facilities;

29 revising exemption from assessment of fees; providing for
30 additional services to charter schools and revising
31 administrative fee requirements; requiring the department
32 to develop a standard format for applications, charters,
33 and charter renewals; requiring legislative review of
34 charter schools in 2010; amending s. 218.39, F.S.;
35 requiring the governing body of a charter school to be
36 notified of certain deteriorating financial conditions;
37 amending s. 218.50, F.S.; modifying a short title;
38 amending s. 218.501, F.S.; including charter schools in
39 the statement of purpose relating to financial management;
40 amending s. 218.503, F.S.; providing for charter schools
41 to be subject to provisions governing financial
42 emergencies; providing procedures; amending s. 218.504,
43 F.S.; providing for cessation of state action related to a
44 state of financial emergency; amending s. 11.45, F.S.;
45 conforming provisions; amending s. 1002.32, F.S.;
46 providing that a charter lab school that elects to provide
47 student transportation is eligible for funding for that
48 purpose; amending s. 1003.05, F.S.; modifying the list of
49 special academic programs for transitioning students from
50 military families; amending s. 1012.74, F.S.; providing
51 that educator professional liability insurance shall cover
52 charter school personnel; amending s. 1013.62, F.S.;
53 revising provisions relating to eligibility for and
54 allocation of charter school capital outlay funding;
55 revising purposes for which capital outlay funds may be
56 used; providing effective dates.

57
58 Be It Enacted by the Legislature of the State of Florida:
59
60 Section 1. Section 1002.33, Florida Statutes, is amended
61 to read:
62 1002.33 Charter schools.--
63 (1) AUTHORIZATION.--Charter schools shall be part of the
64 state's program of public education. All charter schools in
65 Florida are public schools. A charter school may be formed by
66 creating a new school or converting an existing public school to
67 charter status. A public school may not use the term charter in
68 its name unless it has been approved under this section.
69 (2) GUIDING PRINCIPLES; PURPOSE.--
70 (a) Charter schools in Florida shall be guided by the
71 following principles:
72 1. Meet high standards of student achievement while
73 providing parents flexibility to choose among diverse
74 educational opportunities within the state's public school
75 system.
76 2. Promote enhanced academic success and financial
77 efficiency by aligning responsibility with accountability.
78 3. Provide parents with sufficient information on whether
79 their child is reading at grade level and whether the child
80 gains at least a year's worth of learning for every year spent
81 in the charter school.
82 (b) Charter schools shall fulfill the following purposes:
83 1. Improve student learning and academic achievement.
84 2. Increase learning opportunities for all students, with

85 special emphasis on low-performing students and reading.
86 ~~3. Create new professional opportunities for teachers,~~
87 ~~including ownership of the learning program at the school site.~~
88 3.~~4.~~ Encourage the use of innovative learning methods.
89 4.~~5.~~ Require the measurement of learning outcomes.
90 (c) Charter schools may fulfill the following purposes:
91 1. Create innovative measurement tools.
92 2. Provide rigorous competition within the public school
93 district to stimulate continual improvement in all public
94 schools.
95 3. Expand the capacity of the public school system.
96 4. Mitigate the educational impact created by the
97 development of new residential dwelling units.
98 5. Create new professional opportunities for teachers,
99 including ownership of the learning program at the school site.
100 (3) APPLICATION FOR CHARTER STATUS.--
101 (a) An application for a new charter school may be made by
102 an individual, teachers, parents, a group of individuals, a
103 municipality, or a legal entity organized under the laws of this
104 state.
105 (b) An application for a conversion charter school shall
106 be made by the district school board, the principal, teachers,
107 parents, and/or the school advisory council at an existing
108 public school that has been in operation for at least 2 years
109 prior to the application to convert.~~, including~~ A public school-
110 within-a-school that is designated as a school by the district
111 school board may also submit an application to convert to
112 charter status. An application submitted proposing to convert an

113 existing public school to a charter school shall demonstrate the
114 support of at least 50 percent of the teachers employed at the
115 school and 50 percent of the parents voting whose children are
116 enrolled at the school, provided that a majority of the parents
117 eligible to vote participate in the ballot process, according to
118 rules adopted by the State Board of Education. A district school
119 board denying an application for a conversion charter school
120 shall provide notice of denial to the applicants in writing
121 within 10 ~~30~~ days after the meeting at which the district school
122 board denied the application. The notice must articulate in
123 writing ~~specify~~ the specific ~~exact~~ reasons for denial and must
124 provide documentation supporting those reasons. A private
125 school, parochial school, or home education program shall not be
126 eligible for charter school status.
127 (4) UNLAWFUL REPRISAL.--
128 (a) No district school board, or district school board
129 employee who has control over personnel actions, shall take
130 unlawful reprisal against another district school board employee
131 because that employee is either directly or indirectly involved
132 with an application to establish a charter school. As used in
133 this subsection, the term "unlawful reprisal" means an action
134 taken by a district school board or a school system employee
135 against an employee who is directly or indirectly involved in a
136 lawful application to establish a charter school, which occurs
137 as a direct result of that involvement, and which results in one
138 or more of the following: disciplinary or corrective action;
139 adverse transfer or reassignment, whether temporary or
140 permanent; suspension, demotion, or dismissal; an unfavorable

141 performance evaluation; a reduction in pay, benefits, or
142 rewards; elimination of the employee's position absent of a
143 reduction in workforce as a result of lack of moneys or work; or
144 other adverse significant changes in duties or responsibilities
145 that are inconsistent with the employee's salary or employment
146 classification. The following procedures shall apply to an
147 alleged unlawful reprisal that occurs as a consequence of an
148 employee's direct or indirect involvement with an application to
149 establish a charter school:
150 1. Within 60 days after the date upon which a reprisal
151 prohibited by this subsection is alleged to have occurred, an
152 employee may file a complaint with the Department of Education.
153 2. Within 3 working days after receiving a complaint under
154 this section, the Department of Education shall acknowledge
155 receipt of the complaint and provide copies of the complaint and
156 any other relevant preliminary information available to each of
157 the other parties named in the complaint, which parties shall
158 each acknowledge receipt of such copies to the complainant.
159 3. If the Department of Education determines that the
160 complaint demonstrates reasonable cause to suspect that an
161 unlawful reprisal has occurred, the Department of Education
162 shall conduct an investigation to produce a fact-finding report.
163 4. Within 90 days after receiving the complaint, the
164 Department of Education shall provide the district school
165 superintendent of the complainant's district and the complainant
166 with a fact-finding report that may include recommendations to
167 the parties or a proposed resolution of the complaint. The fact-
168 finding report shall be presumed admissible in any subsequent or

169 related administrative or judicial review.
170 5. If the Department of Education determines that
171 reasonable grounds exist to believe that an unlawful reprisal
172 has occurred, is occurring, or is to be taken, and is unable to
173 conciliate a complaint within 60 days after receipt of the fact-
174 finding report, the Department of Education shall terminate the
175 investigation. Upon termination of any investigation, the
176 Department of Education shall notify the complainant and the
177 district school superintendent of the termination of the
178 investigation, providing a summary of relevant facts found
179 during the investigation and the reasons for terminating the
180 investigation. A written statement under this paragraph is
181 presumed admissible as evidence in any judicial or
182 administrative proceeding.
183 6. The Department of Education shall either contract with
184 the Division of Administrative Hearings under s. 120.65, or
185 otherwise provide for a complaint for which the Department of
186 Education determines reasonable grounds exist to believe that an
187 unlawful reprisal has occurred, is occurring, or is to be taken,
188 and is unable to conciliate, to be heard by a panel of impartial
189 persons. Upon hearing the complaint, the panel shall make
190 findings of fact and conclusions of law for a final decision by
191 the Department of Education.
192
193 It shall be an affirmative defense to any action brought
194 pursuant to this section that the adverse action was predicated
195 upon grounds other than, and would have been taken absent, the
196 employee's exercise of rights protected by this section.

197 (b) In any action brought under this section for which it
198 is determined reasonable grounds exist to believe that an
199 unlawful reprisal has occurred, is occurring, or is to be taken,
200 the relief shall include the following:
201 1. Reinstatement of the employee to the same position held
202 before the unlawful reprisal was commenced, or to an equivalent
203 position, or payment of reasonable front pay as alternative
204 relief.
205 2. Reinstatement of the employee's full fringe benefits
206 and seniority rights, as appropriate.
207 3. Compensation, if appropriate, for lost wages, benefits,
208 or other lost remuneration caused by the unlawful reprisal.
209 4. Payment of reasonable costs, including attorney's fees,
210 to a substantially prevailing employee, or to the prevailing
211 employer if the employee filed a frivolous action in bad faith.
212 5. Issuance of an injunction, if appropriate, by a court
213 of competent jurisdiction.
214 6. Temporary reinstatement to the employee's former
215 position or to an equivalent position, pending the final outcome
216 of the complaint, if it is determined that the action was not
217 made in bad faith or for a wrongful purpose, and did not occur
218 after a district school board's initiation of a personnel action
219 against the employee that includes documentation of the
220 employee's violation of a disciplinary standard or performance
221 deficiency.
222 (5) SPONSOR; DUTIES.--
223 (a) Sponsoring entities.--
224 1. A district school board may sponsor a charter school in

225 the county over which the district school board has
226 jurisdiction.
227 2. A state university may grant a charter to a lab school
228 created under s. 1002.32 and shall be considered to be the
229 school's sponsor. Such school shall be considered a charter lab
230 school.
231 (b) Sponsor duties.--
232 1. The sponsor shall monitor and review the charter school
233 in its progress toward the goals established in the charter.
234 2. The sponsor shall monitor the revenues and expenditures
235 of the charter school.
236 3. The sponsor may approve a charter for a charter school
237 before the applicant has secured space, equipment, or personnel,
238 if the applicant indicates approval is necessary for it to raise
239 working funds ~~capital~~.
240 4. The sponsor's policies shall not apply to a charter
241 school unless mutually agreed to by both the sponsor and the
242 charter school.
243 5. The sponsor shall ensure that the charter is innovative
244 and consistent with the state education goals established by s.
245 1000.03(5).
246 6. The sponsor shall ensure that the charter school
247 participates in the state's education accountability system. If
248 a charter school falls short of performance measures included in
249 the approved charter, the sponsor shall report such shortcomings
250 to the Department of Education.
251 7. The sponsor shall not impose additional reporting
252 requirements on a charter school without providing reasonable

253 and specific justification in writing to the charter school.
254
255 A community college may work with the school district or school
256 districts in its designated service area to develop charter
257 schools that offer secondary education. These charter schools
258 must include an option for students to receive an associate
259 degree upon high school graduation. District school boards shall
260 cooperate with and assist the community college on the charter
261 application. Community college applications for charter schools
262 are not subject to the time deadlines outlined in subsection (6)
263 and may be approved by the district school board at any time
264 during the year. Community colleges shall not report FTE for any
265 students who receive FTE funding through the Florida Education
266 Finance Program.
267 (6) APPLICATION PROCESS AND REVIEW.--Charter school
268 ~~Beginning September 1, 2003,~~ applications are subject to the
269 following requirements:
270 (a) A person or entity wishing to open a charter school
271 shall prepare an application that:
272 1. Demonstrates how the school will use the guiding
273 principles and meet the statutorily defined purpose of a charter
274 school.
275 2. Provides a detailed curriculum plan that illustrates
276 how students will be provided services to attain the Sunshine
277 State Standards.
278 3. Contains goals and objectives for improving student
279 learning and measuring that improvement. These goals and
280 objectives must indicate how much academic improvement students

281 are expected to show each year, how success will be evaluated,
282 and the specific results to be attained through instruction.
283 4. Describes the reading curriculum and differentiated
284 strategies that will be used for students reading at grade level
285 or higher and a separate curriculum and strategies for students
286 who are reading below grade level. A sponsor shall deny a
287 charter if the school does not propose a reading curriculum that
288 is consistent with effective teaching strategies that are
289 grounded in scientifically based reading research.
290 5. Contains an annual financial plan for each year
291 requested by the charter for operation of the school for up to 5
292 years. This plan must contain anticipated fund balances based on
293 revenue projections, a spending plan based on projected revenues
294 and expenses, and a description of controls that will safeguard
295 finances and projected enrollment trends.
296 (b) A district school board shall receive and review all
297 applications for a charter school. Beginning with the 2007-2008
298 school year, a district school board shall receive and consider
299 charter school applications received on or before August
300 ~~September~~ 1 of each calendar year for charter schools to be
301 opened at the beginning of the school district's next school
302 year, or to be opened at a time agreed to by the applicant and
303 the district school board. A district school board may receive
304 applications later than this date if it chooses. A sponsor may
305 not charge an applicant for a charter any fee for the processing
306 or consideration of an application, and a sponsor may not base
307 its consideration or approval of an application upon the promise
308 of future payment of any kind.

309 1. In order to facilitate an accurate budget projection
310 process, a district school board shall be held harmless for FTE
311 students who are not included in the FTE projection due to
312 approval of charter school applications after the FTE projection
313 deadline. In a further effort to facilitate an accurate budget
314 projection, within 15 calendar days after receipt of a charter
315 school application, a district school board or other sponsor
316 shall report to the Department of Education the name of the
317 applicant entity, the proposed charter school location, and its
318 projected FTE.
319 2. In order to ensure fiscal responsibility, an
320 application for a charter school shall include a full accounting
321 of expected assets, a projection of expected sources and amounts
322 of income, including income derived from projected student
323 enrollments and from community support, and an expense
324 projection that includes full accounting of the costs of
325 operation, including start-up costs.
326 3. A district school board shall by a majority vote
327 approve or deny an application no later than 60 calendar days
328 after the application is received, unless the district school
329 board and the applicant mutually agree in writing to temporarily
330 postpone the vote to a specific date, at which time the district
331 school board shall by a majority vote approve or deny the
332 application. If the district school board fails to act on the
333 application, an applicant may appeal to the State Board of
334 Education as provided in paragraph (c). If an application is
335 denied, the district school board shall, within 10 calendar
336 days, articulate in writing the specific reasons for ~~based upon~~

337 ~~good cause supporting~~ its denial of the charter application and
338 shall provide the letter of denial and supporting documentation
339 to the applicant and to the Department of Education supporting
340 those reasons.
341 4. For budget projection purposes, the district school
342 board or other sponsor shall report to the Department of
343 Education the approval or denial of a charter application within
344 10 calendar days after such approval or denial. In the event of
345 approval, the report to the Department of Education shall
346 include the final projected FTE for the approved charter school.
347 5. Upon approval of a charter application, the initial
348 startup shall commence with the beginning of the public school
349 calendar for the district in which the charter is granted unless
350 the sponsor ~~district school board~~ allows a waiver of this
351 provision for good cause.
352 (c) An applicant may appeal any denial of that applicant's
353 application or failure to act on an application to the State
354 Board of Education no later than 30 calendar days after receipt
355 of the district school board's decision or failure to act and
356 shall notify the district school board of its appeal. Any
357 response of the district school board shall be submitted to the
358 State Board of Education within 30 calendar days after
359 notification of the appeal. Upon receipt of notification from
360 the State Board of Education that a charter school applicant is
361 filing an appeal, the Commissioner of Education shall convene a
362 meeting of the Charter School Appeal Commission to study and
363 make recommendations to the State Board of Education regarding
364 its pending decision about the appeal. The commission shall

365 forward its recommendation to the state board no later than 7
366 calendar days prior to the date on which the appeal is to be
367 heard. The State Board of Education shall by majority vote
368 accept or reject the decision of the district school board no
369 later than 90 calendar days after an appeal is filed in
370 accordance with State Board of Education rule. The Charter
371 School Appeal Commission may reject an appeal submission for
372 failure to comply with procedural rules governing the appeals
373 process. The rejection shall describe the submission errors. The
374 appellant may have up to 15 calendar days from notice of
375 rejection to resubmit an appeal that meets requirements of State
376 Board of Education rule. An application for appeal submitted
377 subsequent to such rejection shall be considered timely if the
378 original appeal was filed within 30 calendar days after receipt
379 of notice of the specific reasons for the district school
380 board's denial of the charter application. The State Board of
381 Education shall remand the application to the district school
382 board with its written decision that the district school board
383 approve or deny the application. The district school board shall
384 implement the decision of the State Board of Education. The
385 decision of the State Board of Education is not subject to the
386 provisions of the Administrative Procedure Act, chapter 120.
387 (d) The district school board shall act upon the decision
388 of the State Board of Education within 30 calendar days after it
389 is received. The State Board of Education's decision is a final
390 action subject to judicial review <u>in the district court of</u>
391 <u>appeal</u>.
392 (e)1. A Charter School Appeal Commission is established to

393 assist the commissioner and the State Board of Education with a
394 fair and impartial review of appeals by applicants whose charter
395 applications have been denied, whose charter contracts have not
396 been renewed, or whose charter contracts have been terminated by
397 their sponsors~~, or whose disputes over contract negotiations~~
398 ~~have not been resolved through mediation~~.
399 2. The Charter School Appeal Commission may receive copies
400 of the appeal documents forwarded to the State Board of
401 Education, review the documents, gather other applicable
402 information regarding the appeal, and make a written
403 recommendation to the commissioner. The recommendation must
404 state whether the appeal should be upheld or denied and include
405 the reasons for the recommendation being offered. The
406 commissioner shall forward the recommendation to the State Board
407 of Education no later than 7 calendar days prior to the date on
408 which the appeal is to be heard. The state board must consider
409 the commission's recommendation in making its decision, but is
410 not bound by the recommendation. The decision of the Charter
411 School Appeal Commission is not subject to the provisions of the
412 Administrative Procedure Act, chapter 120.
413 3. The commissioner shall appoint the members of the
414 Charter School Appeal Commission. Members shall serve without
415 compensation but may be reimbursed for travel and per diem
416 expenses in conjunction with their service. One-half of the
417 members must represent currently operating charter schools, and
418 one-half of the members must represent school districts. The
419 commissioner or a named designee shall chair the Charter School
420 Appeal Commission.

421 4. The chair shall convene meetings of the commission and
422 shall ensure that the written recommendations are completed and
423 forwarded in a timely manner. In cases where the commission
424 cannot reach a decision, the chair shall make the written
425 recommendation with justification, noting that the decision was
426 rendered by the chair.
427 5. Commission members shall thoroughly review the
428 materials presented to them from the appellant and the sponsor.
429 The commission may request information to clarify the
430 documentation presented to it. In the course of its review, the
431 commission may facilitate the postponement of an appeal in those
432 cases where additional time and communication may negate the
433 need for a formal appeal and both parties agree, in writing, to
434 postpone the appeal to the State Board of Education. A new date
435 certain for the appeal shall then be set based upon the rules
436 and procedures of the State Board of Education. Commission
437 members shall provide a written recommendation to the state
438 board as to whether the appeal should be upheld or denied. A
439 fact-based justification for the recommendation must be
440 included. The chair must ensure that the written recommendation
441 is submitted to the State Board of Education members no later
442 than 7 calendar days prior to the date on which the appeal is to
443 be heard. Both parties in the case shall also be provided a copy
444 of the recommendation.
445 (f) The Department of Education shall offer or arrange for
446 training and technical assistance to charter school applicants
447 in developing business plans and estimating costs and income.
448 This assistance shall address estimating startup costs,

449 projecting enrollment, and identifying the types and amounts of
450 state and federal financial assistance the charter school will
451 be eligible to receive. The department ~~of Education~~ may provide
452 other technical assistance to an applicant upon written request.
453 (g) In considering charter applications for a lab school,
454 a state university shall consult with the district school board
455 of the county in which the lab school is located. The decision
456 of a state university may be appealed pursuant to the procedure
457 established in this subsection.
458 (h) The terms and conditions for the operation of a
459 charter school shall be set forth by the sponsor and the
460 applicant in a written contractual agreement, called a charter.
461 The sponsor shall not impose unreasonable rules or regulations
462 that violate the intent of giving charter schools greater
463 flexibility to meet educational goals. The applicant and sponsor
464 shall have 60 days to provide an initial proposed charter
465 contract to the charter school and 75 days thereafter to
466 negotiate the contract and ~~6 months in which~~ to mutually agree
467 to the provisions of the final charter contract. The proposed
468 charter shall be provided to the charter school at least 7
469 calendar days prior to the date on which the charter is
470 scheduled to be heard by the sponsor. The Department of
471 Education shall provide mediation services for any dispute
472 regarding this section subsequent to the approval of a charter
473 application and for any dispute relating to the approved
474 charter, except disputes regarding charter school application
475 denials. If the Commissioner of Education determines that the
476 dispute cannot be settled through mediation, the dispute may be

477 appealed to an administrative law judge appointed by the
478 Division of Administrative Hearings. The administrative law
479 judge may rule on issues of equitable treatment of the charter
480 school as a public school, whether proposed provisions of the
481 charter violate the intended flexibility granted charter schools
482 by statute, or on any other matter regarding this section except
483 a charter school application denial, a charter termination, or a
484 charter nonrenewal and shall award the prevailing party
485 reasonable attorney's fees and costs incurred to be paid by the
486 losing party. The costs of the administrative hearing shall be
487 paid by the party whom the administrative law judge rules
488 against.
489 (7) CHARTER.--The major issues involving the operation of
490 a charter school shall be considered in advance and written into
491 the charter. The charter shall be signed by the governing body
492 of the charter school and the sponsor, following a public
493 hearing to ensure community input.
494 (a) The charter shall address, and criteria for approval
495 of the charter shall be based on:
496 1. The school's mission, the students to be served, and
497 the ages and grades to be included.
498 2. The focus of the curriculum, the instructional methods
499 to be used, any distinctive instructional techniques to be
500 employed, and identification and acquisition of appropriate
501 technologies needed to improve educational and administrative
502 performance which include a means for promoting safe, ethical,
503 and appropriate uses of technology which comply with legal and
504 professional standards. The charter shall ensure that reading is

505 a primary focus of the curriculum and that resources are
506 provided to identify and provide specialized instruction for
507 students who are reading below grade level. The curriculum and
508 instructional strategies for reading must be consistent with the
509 Sunshine State Standards and grounded in scientifically based
510 reading research.
511 3. The current incoming baseline standard of student
512 academic achievement, the outcomes to be achieved, and the
513 method of measurement that will be used. The criteria listed in
514 this subparagraph shall include a detailed description for each
515 of the following:
516 a. How the baseline student academic achievement levels
517 and prior rates of academic progress will be established.
518 b. How these baseline rates will be compared to rates of
519 academic progress achieved by these same students while
520 attending the charter school.
521 c. To the extent possible, how these rates of progress
522 will be evaluated and compared with rates of progress of other
523 closely comparable student populations.
524
525 The district school board is required to provide academic
526 student performance data to charter schools for each of their
527 students coming from the district school system, as well as
528 rates of academic progress of comparable student populations in
529 the district school system.
530 4. The methods used to identify the educational strengths
531 and needs of students and how well educational goals and
532 performance standards are met by students attending the charter

533 school. Included in the methods is a means for the charter
534 school to ensure accountability to its constituents by analyzing
535 student performance data and by evaluating the effectiveness and
536 efficiency of its major educational programs. Students in
537 charter schools shall, at a minimum, participate in the
538 statewide assessment program created under s. 1008.22.
539 5. In secondary charter schools, a method for determining
540 that a student has satisfied the requirements for graduation in
541 s. 1003.43.
542 6. A method for resolving conflicts between the governing
543 body of the charter school and the sponsor.
544 7. The admissions procedures and dismissal procedures,
545 including the school's code of student conduct.
546 8. The ways by which the school will achieve a
547 racial/ethnic balance reflective of the community it serves or
548 within the racial/ethnic range of other public schools in the
549 same school district.
550 9. The financial and administrative management of the
551 school, including a reasonable demonstration of the professional
552 experience or competence of those individuals or organizations
553 applying to operate the charter school or those hired or
554 retained to perform such professional services and the
555 description of clearly delineated responsibilities and the
556 policies and practices needed to effectively manage the charter
557 school. A description of internal audit procedures and
558 establishment of controls to ensure that financial resources are
559 properly managed must be included. Both public sector and
560 private sector professional experience shall be equally valid in

561 such a consideration.
562 10. The asset and liability projections required in the
563 application which are incorporated into the charter and which
564 shall be compared with information provided in the annual report
565 of the charter school. The charter shall ensure that, if a
566 charter school internal audit or annual financial audit reveals
567 a state of financial emergency as defined in s. 218.503 or
568 deficit financial position, the auditors are required to notify
569 the charter school governing board, the sponsor, and the
570 Department of Education. The internal auditor shall report such
571 findings in the form of an exit interview to the principal or
572 the principal administrator of the charter school and the chair
573 of the governing board within 7 working days after finding the
574 state of financial emergency or deficit position. A final report
575 shall be provided to the entire governing board, the sponsor,
576 and the Department of Education within 14 working days after the
577 exit interview. When a charter school is in a state of financial
578 emergency, the charter school shall file a detailed financial
579 recovery plan with the sponsor. The department, with the
580 involvement of both sponsors and charter schools, shall
581 establish guidelines for developing such plans.
582 11. A description of procedures that identify various
583 risks and provide for a comprehensive approach to reduce the
584 impact of losses; plans to ensure the safety and security of
585 students and staff; plans to identify, minimize, and protect
586 others from violent or disruptive student behavior; and the
587 manner in which the school will be insured, including whether or
588 not the school will be required to have liability insurance,

589 and, if so, the terms and conditions thereof and the amounts of
590 coverage.
591 12. The term of the charter which shall provide for
592 cancellation of the charter if insufficient progress has been
593 made in attaining the student achievement objectives of the
594 charter and if it is not likely that such objectives can be
595 achieved before expiration of the charter. The initial term of a
596 charter shall be for ~~3,~~ 4~~,~~ or 5 years. In order to facilitate
597 access to long-term financial resources for charter school
598 construction, charter schools that are operated by a
599 municipality or other public entity as provided by law are
600 eligible for up to a 15-year charter, subject to approval by the
601 district school board. A charter lab school is eligible for a
602 charter for a term of up to 15 years. In addition, to facilitate
603 access to long-term financial resources for charter school
604 construction, charter schools that are operated by a private,
605 not-for-profit, s. 501(c)(3) status corporation are eligible for
606 up to a 15-year ~~10-year~~ charter, subject to approval by the
607 district school board. Such long-term charters remain subject to
608 annual review and may be terminated during the term of the
609 charter, but only ~~for specific good cause~~ according to the
610 provisions set forth in subsection (8).
611 13. The facilities to be used and their location.
612 14. The qualifications to be required of the teachers and
613 the potential strategies used to recruit, hire, train, and
614 retain qualified staff to achieve best value.
615 15. The governance structure of the school, including the
616 status of the charter school as a public or private employer as

617 required in paragraph (12)(i).
618 16. A timetable for implementing the charter which
619 addresses the implementation of each element thereof and the
620 date by which the charter shall be awarded in order to meet this
621 timetable.
622 17. In the case of an existing public school being
623 converted to charter status, alternative arrangements for
624 current students who choose not to attend the charter school and
625 for current teachers who choose not to teach in the charter
626 school after conversion in accordance with the existing
627 collective bargaining agreement or district school board rule in
628 the absence of a collective bargaining agreement. However,
629 alternative arrangements shall not be required for current
630 teachers who choose not to teach in a charter lab school, except
631 as authorized by the employment policies of the state university
632 which grants the charter to the lab school.
633 (b)1. A charter may be renewed ~~every 5 school years,~~
634 provided that a program review demonstrates that the criteria in
635 paragraph (a) have been successfully accomplished and that none
636 of the grounds for nonrenewal established by paragraph (8)(a)
637 has been documented. In order to facilitate long-term financing
638 for charter school construction, charter schools operating for a
639 minimum of 2 years and demonstrating exemplary academic
640 programming and fiscal management are eligible for a 15-year
641 charter renewal. Such long-term charter is subject to annual
642 review and may be terminated during the term of the charter.
643 2. The 15-year charter renewal that may be granted
644 pursuant to subparagraph 1. shall be granted to a charter school

645 that has received a school grade of "A" or "B" pursuant to s.
646 1008.34 in 3 of the past 4 years and is not in a state of
647 financial emergency or deficit position as defined by this
648 section. Such long-term charter is subject to annual review and
649 may be terminated during the term of the charter pursuant to
650 subsection (8).
651 (c) A charter may be modified during its initial term or
652 any renewal term upon the recommendation of the sponsor or the
653 charter school governing board and the approval of both parties
654 to the agreement.
655 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--
656 (a) ~~At the end of the term of a charter,~~ The sponsor may
657 choose not to renew or may terminate the charter for any of the
658 following grounds:
659 1. Failure to participate in the state's education
660 accountability system created in s. 1008.31, as required in this
661 section, or failure to meet the requirements for student
662 performance stated in the charter.
663 2. Failure to meet generally accepted standards of fiscal
664 management.
665 3. Violation of law.
666 4. Determination by the sponsor that the health, safety,
667 or welfare of the students is threatened ~~Other good cause shown~~.
668 5. Material breach or repeated violations of the terms of
669 the charter.
670 ~~(b) During the term of a charter, the sponsor may~~
671 ~~terminate the charter for any of the grounds listed in paragraph~~
672 ~~(a).~~

673 (b) ~~(c)~~ At least 90 days prior to renewing or terminating a
674 charter, the sponsor shall notify the governing body of the
675 school of the proposed action in writing. The notice shall state
676 in reasonable detail the grounds for the proposed action and
677 stipulate that the school's governing body may, within 14
678 calendar days after receiving the notice, request an informal
679 hearing before the sponsor. The sponsor shall conduct the
680 informal hearing within 30 calendar days after receiving a
681 written request. ~~The charter school's governing body may, within~~
682 ~~14 calendar days after receiving the sponsor's decision to~~
683 ~~terminate or refuse to renew the charter, appeal the decision~~
684 ~~pursuant to the procedure established in subsection (6).~~
685 (c) If a charter is not renewed or is terminated pursuant
686 to paragraph (b), the sponsor shall, within 10 calendar days,
687 articulate in writing the specific reasons for its nonrenewal or
688 termination of the charter and must provide the letter of
689 nonrenewal or termination and documentation supporting the
690 reasons to the charter school governing body, the charter school
691 principal, and the Department of Education. The charter school's
692 governing body may, within 30 calendar days after receiving the
693 sponsor's final written decision to refuse to renew or to
694 terminate the charter, appeal the decision pursuant to the
695 procedure established in subsection (6).
696 (d) A charter may be terminated immediately if the sponsor
697 determines that ~~good cause has been shown or if~~ the health,
698 safety, or welfare of the students is threatened. The sponsor
699 shall notify in writing the charter school's governing body, the
700 charter school principal, and the department if a charter is

701 immediately terminated. The sponsor shall clearly identify the
702 specific issues that resulted in the immediate termination and
703 provide evidence of prior notification of issues resulting in
704 the immediate termination when appropriate. The school district
705 in which the charter school is located shall assume operation of
706 the school under these circumstances. The charter school's
707 governing board may, within 30 ~~14~~ days after receiving the
708 sponsor's decision to terminate the charter, appeal the decision
709 pursuant to the procedure established in subsection (6).
710 (e) When a charter is not renewed or is terminated, the
711 school shall be dissolved under the provisions of law under
712 which the school was organized, and any unencumbered public
713 funds, except for capital outlay funds and federal charter
714 school program grant funds, from the charter school shall revert
715 to the sponsor ~~district school board~~. Capital outlay funds
716 provided pursuant to s. 1013.62 and federal charter school
717 program grant funds that are unencumbered shall revert to the
718 department to be redistributed among eligible charter schools.
719 In the event a charter school is dissolved or is otherwise
720 terminated, all district school board property and improvements,
721 furnishings, and equipment purchased with public funds shall
722 automatically revert to full ownership by the district school
723 board, subject to complete satisfaction of any lawful liens or
724 encumbrances. Any unencumbered public funds from the charter
725 school, district school board property and improvements,
726 furnishings, and equipment purchased with public funds, or
727 financial or other records pertaining to the charter school, in
728 the possession of any person, entity, or holding company, other

729 than the charter school, shall be held in trust upon the
730 district school board's request, until any appeal status is
731 resolved.
732 (f) If a charter is not renewed or is terminated, the
733 charter school is responsible for all debts of the charter
734 school. The district may not assume the debt from any contract
735 for services made between the governing body of the school and a
736 third party, except for a debt that is previously detailed and
737 agreed upon in writing by both the district and the governing
738 body of the school and that may not reasonably be assumed to
739 have been satisfied by the district.
740 (g) If a charter is not renewed or is terminated, a
741 student who attended the school may apply to, and shall be
742 enrolled in, another public school. Normal application deadlines
743 shall be disregarded under such circumstances.
744 (9) CHARTER SCHOOL REQUIREMENTS.--
745 (a) A charter school shall be nonsectarian in its
746 programs, admission policies, employment practices, and
747 operations.
748 (b) A charter school shall admit students as provided in
749 subsection (10).
750 (c) A charter school shall be accountable to its sponsor
751 for performance as provided in subsection (7).
752 (d) A charter school shall not charge tuition or
753 registration fees, except those fees normally charged by other
754 public schools. However, a charter lab school may charge a
755 student activity and service fee as authorized by s. 1002.32(5).
756 (e) A charter school shall meet all applicable state and

757 local health, safety, and civil rights requirements.
758 (f) A charter school shall not violate the
759 antidiscrimination provisions of s. 1000.05.
760 (g) A charter school shall provide for an annual financial
761 audit in accordance with s. 218.39. Financial audits that reveal
762 a state of financial emergency as defined in s. 218.503 and are
763 conducted by a certified public accountant or auditor in
764 accordance with s. 218.39 shall be provided to the governing
765 body of the charter school within 7 working days after finding
766 that a state of financial emergency exists. When a charter
767 school is found to be in a state of financial emergency by a
768 certified public accountant or auditor, the charter school must
769 file a detailed financial recovery plan with the sponsor within
770 30 days after receipt of the audit.
771 (h) No organization shall hold more than 15 charters
772 statewide.
773 (i) In order to provide financial information that is
774 comparable to that reported for other public schools, charter
775 schools are to maintain all financial records which constitute
776 their accounting system:
777 1. In accordance with the accounts and codes prescribed in
778 the most recent issuance of the publication titled "Financial
779 and Program Cost Accounting and Reporting for Florida Schools";
780 or
781 2. At the discretion of the charter school governing
782 board, a charter school may elect to follow generally accepted
783 accounting standards for not-for-profit organizations, but must
784 reformat this information for reporting according to this

785 paragraph.
786
787 Charter schools shall ~~are to~~ provide annual financial report and
788 program cost report information in the state-required formats
789 for inclusion in district reporting in compliance with s.
790 1011.60(1). Charter schools that are operated by a municipality
791 or are a component unit of a parent nonprofit organization may
792 use the accounting system of the municipality or the parent but
793 must reformat this information for reporting according to this
794 paragraph.
795 (j) The governing board of the charter school shall
796 annually adopt and maintain an operating budget.
797 (k) The governing body of the charter school shall
798 exercise continuing oversight over charter school operations.
799 (l) The governing body of the charter school shall be
800 responsible for:
801 1. Ensuring that the charter school has retained the
802 services of a certified public accountant or auditor for the
803 annual financial audit, pursuant to paragraph (g), who shall
804 submit the report to the governing body.
805 2. Reviewing and approving the audit report, including
806 audit findings and recommendations for the financial recovery
807 plan.
808 3. Monitoring a financial recovery plan in order to ensure
809 compliance.
810 (m) ~~(l)~~ The governing body of the charter school shall
811 report its progress annually to its sponsor, which shall forward
812 the report to the Commissioner of Education at the same time as

813 other annual school accountability reports. The Department of
814 Education shall develop a uniform, on-line annual accountability
815 report to be completed by charter schools. This report shall be
816 easy to utilize and contain demographic information, student
817 performance data, and financial accountability information. A
818 charter school shall not be required to provide information and
819 data that is duplicative and already in the possession of the
820 department. The Department of Education shall include in its
821 compilation a notation if a school failed to file its report by
822 the deadline established by the department. The report shall
823 include at least the following components:
824 1. Student achievement performance data, including the
825 information required for the annual school report and the
826 education accountability system governed by ss. 1008.31 and
827 1008.345. Charter schools are subject to the same accountability
828 requirements as other public schools, including reports of
829 student achievement information that links baseline student data
830 to the school's performance projections identified in the
831 charter. The charter school shall identify reasons for any
832 difference between projected and actual student performance.
833 2. Financial status of the charter school which must
834 include revenues and expenditures at a level of detail that
835 allows for analysis of the ability to meet financial obligations
836 and timely repayment of debt.
837 3. Documentation of the facilities in current use and any
838 planned facilities for use by the charter school for instruction
839 of students, administrative functions, or investment purposes.
840 4. Descriptive information about the charter school's

841 personnel, including salary and benefit levels of charter school
842 employees, the proportion of instructional personnel who hold
843 professional or temporary certificates, and the proportion of
844 instructional personnel teaching in-field or out-of-field.
845 (n) ~~(m)~~ A charter school shall not levy taxes or issue
846 bonds secured by tax revenues.
847 (o) ~~(n)~~ A charter school shall provide instruction for at
848 least the number of days required by law for other public
849 schools, and may provide instruction for additional days.
850 (p) The director and a representative of the governing
851 body of a charter school that has received a school grade of "D"
852 under s. 1008.34(2) shall appear before the sponsor or the
853 sponsor's staff at least once a year to present information
854 concerning each contract component having noted deficiencies.
855 The sponsor shall communicate at the meeting, and in writing to
856 the director, the services provided to the school to help the
857 school address its deficiencies.
858 (q) Upon notification that a charter school receives a
859 school grade of "D" for 2 consecutive years or a school grade of
860 "F" under s. 1008.34(2), the charter school sponsor or the
861 sponsor's staff shall require the director and a representative
862 of the governing body to submit to the sponsor for approval a
863 school improvement plan to raise student achievement and to
864 implement the plan. The sponsor has the authority to approve a
865 school improvement plan that the charter school will implement
866 in the following school year. The Department of Education shall
867 offer technical assistance and training to the charter school
868 and its governing body and establish guidelines for developing,

869 submitting, and approving such plans.
870 1. If the charter school fails to improve its student
871 performance from the year immediately prior to the
872 implementation of the school improvement plan, the sponsor shall
873 place the charter school on probation and shall require the
874 charter school governing body to take one of the following
875 corrective actions:
876 a. Contract for the educational services of the charter
877 school;
878 b. Reorganize the school at the end of the school year
879 under a new director or principal who is authorized to hire new
880 staff and implement a plan that addresses the causes of
881 inadequate progress; or
882 c. Reconstitute the charter school.
883 2. A charter school that is placed on probation shall
884 continue the corrective actions required under subparagraph 1.
885 until the charter school improves its student performance from
886 the year prior to the implementation of the school improvement
887 plan.
888 3. Notwithstanding any provision of this paragraph, the
889 sponsor may terminate the charter at any time pursuant to the
890 provisions of subsection (8).
891 (r) The director and a representative of the governing
892 body of a graded charter school that has submitted a school
893 improvement plan or has been placed on probation under paragraph
894 (q) shall appear before the sponsor or the sponsor's staff at
895 least once a year to present information regarding the
896 corrective strategies that are being implemented by the school

897 pursuant to the school improvement plan. The sponsor shall
898 communicate at the meeting, and in writing to the director, the
899 services provided to the school to help the school address its
900 deficiencies.
901 (10) ELIGIBLE STUDENTS.--
902 (a) A charter school shall be open to any student covered
903 in an interdistrict agreement or residing in the school district
904 in which the charter school is located; however, in the case of
905 a charter lab school, the charter lab school shall be open to
906 any student eligible to attend the lab school as provided in s.
907 1002.32 or who resides in the school district in which the
908 charter lab school is located. Any eligible student shall be
909 allowed interdistrict transfer to attend a charter school when
910 based on good cause.
911 (b) The charter school shall enroll an eligible student
912 who submits a timely application, unless the number of
913 applications exceeds the capacity of a program, class, grade
914 level, or building. In such case, all applicants shall have an
915 equal chance of being admitted through a random selection
916 process.
917 (c) When a public school converts to charter status,
918 enrollment preference shall be given to students who would have
919 otherwise attended that public school.
920 (d) A charter school may give enrollment preference to the
921 following student populations:
922 1. Students who are siblings of a student enrolled in the
923 charter school.
924 2. Students who are the children of a member of the

925 governing board of the charter school.
926 3. Students who are the children of an employee of the
927 charter school.
928 (e) A charter school may limit the enrollment process only
929 to target the following student populations:
930 1. Students within specific age groups or grade levels.
931 2. Students considered at risk of dropping out of school
932 or academic failure. Such students shall include exceptional
933 education students.
934 3. Students enrolling in a charter school-in-the-workplace
935 or charter school-in-a-municipality established pursuant to
936 subsection (15).
937 4. Students residing within a reasonable distance of the
938 charter school, as described in paragraph (20)(c). Such students
939 shall be subject to a random lottery and to the racial/ethnic
940 balance provisions described in subparagraph (7)(a)8. or any
941 federal provisions that require a school to achieve a
942 racial/ethnic balance reflective of the community it serves or
943 within the racial/ethnic range of other public schools in the
944 same school district.
945 5. Students who meet reasonable academic, artistic, or
946 other eligibility standards established by the charter school
947 and included in the charter school application and charter or,
948 in the case of existing charter schools, standards that are
949 consistent with the school's mission and purpose. Such standards
950 shall be in accordance with current state law and practice in
951 public schools and may not discriminate against otherwise
952 qualified individuals.

953 6. Students articulating from one charter school to
954 another pursuant to an articulation agreement between the
955 charter schools that has been approved by the sponsor.
956 (f) Students with handicapping conditions and students
957 served in English for Speakers of Other Languages programs shall
958 have an equal opportunity of being selected for enrollment in a
959 charter school.
960 (g) A student may withdraw from a charter school at any
961 time and enroll in another public school as determined by
962 district school board rule.
963 (h) The capacity of the charter school shall be determined
964 annually by the governing board, in conjunction with the
965 sponsor, of the charter school in consideration of the factors
966 identified in this subsection.
967 (11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR
968 ACTIVITIES.--A charter school student is eligible to participate
969 in an interscholastic extracurricular activity at the public
970 school to which the student would be otherwise assigned to
971 attend pursuant to s. 1006.15(3)(d).
972 (12) EMPLOYEES OF CHARTER SCHOOLS.--
973 (a) A charter school shall select its own employees. A
974 charter school may contract with its sponsor for the services of
975 personnel employed by the sponsor.
976 (b) Charter school employees shall have the option to
977 bargain collectively. Employees may collectively bargain as a
978 separate unit or as part of the existing district collective
979 bargaining unit as determined by the structure of the charter
980 school.

981 (c) The employees of a conversion charter school shall
982 remain public employees for all purposes, unless such employees
983 choose not to do so.
984 (d) The teachers at a charter school may choose to be part
985 of a professional group that subcontracts with the charter
986 school to operate the instructional program under the auspices
987 of a partnership or cooperative that they collectively own.
988 Under this arrangement, the teachers would not be public
989 employees.
990 (e) Employees of a school district may take leave to
991 accept employment in a charter school upon the approval of the
992 district school board. While employed by the charter school and
993 on leave that is approved by the district school board, the
994 employee may retain seniority accrued in that school district
995 and may continue to be covered by the benefit programs of that
996 school district, if the charter school and the district school
997 board agree to this arrangement and its financing. School
998 districts shall not require resignations of teachers desiring to
999 teach in a charter school. This paragraph shall not prohibit a
1000 district school board from approving alternative leave
1001 arrangements consistent with chapter 1012.
1002 (f) Teachers employed by or under contract to a charter
1003 school shall be certified as required by chapter 1012. A charter
1004 school governing board may employ or contract with skilled
1005 selected noncertified personnel to provide instructional
1006 services or to assist instructional staff members as education
1007 paraprofessionals in the same manner as defined in chapter 1012,
1008 and as provided by State Board of Education rule for charter

1009 school governing boards. A charter school may not knowingly
1010 employ an individual to provide instructional services or to
1011 serve as an education paraprofessional if the individual's
1012 certification or licensure as an educator is suspended or
1013 revoked by this or any other state. A charter school may not
1014 knowingly employ an individual who has resigned from a school
1015 district in lieu of disciplinary action with respect to child
1016 welfare or safety, or who has been dismissed for just cause by
1017 any school district with respect to child welfare or safety. The
1018 qualifications of teachers shall be disclosed to parents.
1019 (g) A charter school shall employ or contract with
1020 employees who have undergone background screening as provided in
1021 s. 1012.32. Members of the governing board of the charter school
1022 shall also undergo background screening in a manner similar to
1023 that provided in s. 1012.32.
1024 (h) For the purposes of tort liability, the governing body
1025 and employees of a charter school shall be governed by s.
1026 768.28.
1027 (i) A charter school shall organize as, or be operated by,
1028 a nonprofit organization. A charter school may be operated by a
1029 municipality or other public entity as provided for by law. As
1030 such, the charter school may be either a private or a public
1031 employer. As a public employer, a charter school may participate
1032 in the Florida Retirement System upon application and approval
1033 as a "covered group" under s. 121.021(34). If a charter school
1034 participates in the Florida Retirement System, the charter
1035 school employees shall be compulsory members of the Florida
1036 Retirement System. As either a private or a public employer, a

1037 charter school may contract for services with an individual or
1038 group of individuals who are organized as a partnership or a
1039 cooperative. Individuals or groups of individuals who contract
1040 their services to the charter school are not public employees.
1041 (13) CHARTER SCHOOL COOPERATIVES.--Charter schools may
1042 enter into cooperative agreements to form charter school
1043 cooperative organizations that may provide the following
1044 services: charter school planning and development, direct
1045 instructional services, and contracts with charter school
1046 governing boards to provide personnel administrative services,
1047 payroll services, human resource management, evaluation and
1048 assessment services, teacher preparation, and professional
1049 development.
1050 (14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS;
1051 INDEMNIFICATION OF THE STATE AND SCHOOL DISTRICT; CREDIT OR
1052 TAXING POWER NOT TO BE PLEDGED.--Any arrangement entered into to
1053 borrow or otherwise secure funds for a charter school authorized
1054 in this section from a source other than the state or a school
1055 district shall indemnify the state and the school district from
1056 any and all liability, including, but not limited to, financial
1057 responsibility for the payment of the principal or interest. Any
1058 loans, bonds, or other financial agreements are not obligations
1059 of the state or the school district but are obligations of the
1060 charter school authority and are payable solely from the sources
1061 of funds pledged by such agreement. The credit or taxing power
1062 of the state or the school district shall not be pledged and no
1063 debts shall be payable out of any moneys except those of the
1064 legal entity in possession of a valid charter approved by a

1065 district school board pursuant to this section.
1066 (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-
1067 A-MUNICIPALITY.--
1068 (a) In order to increase business partnerships in
1069 education, to reduce school and classroom overcrowding
1070 throughout the state, and to offset the high costs for
1071 educational facilities construction, the Legislature intends to
1072 encourage the formation of business partnership schools or
1073 satellite learning centers and municipal-operated schools
1074 through charter school status.
1075 (b) A charter school-in-the-workplace may be established
1076 when a business partner provides the school facility to be used;
1077 enrolls students based upon a random lottery that involves all
1078 of the children of employees of that business or corporation who
1079 are seeking enrollment, as provided for in subsection (10); and
1080 enrolls students according to the racial/ethnic balance
1081 provisions described in subparagraph (7)(a)8. Any portion of a
1082 facility used for a public charter school shall be exempt from
1083 ad valorem taxes, as provided for in s. 1013.54, for the
1084 duration of its use as a public school.
1085 (c) A charter school-in-a-municipality designation may be
1086 granted to a municipality that possesses a charter; enrolls
1087 students based upon a random lottery that involves all of the
1088 children of the residents of that municipality who are seeking
1089 enrollment, as provided for in subsection (10); and enrolls
1090 students according to the racial/ethnic balance provisions
1091 described in subparagraph (7)(a)8. When a municipality has
1092 submitted charter applications for the establishment of a

1093 charter school feeder pattern, consisting of elementary, middle,
1094 and senior high schools, and each individual charter application
1095 is approved by the district school board, such schools shall
1096 then be designated as one charter school for all purposes listed
1097 pursuant to this section. Any portion of the land and facility
1098 used for a public charter school shall be exempt from ad valorem
1099 taxes, as provided for in s. 1013.54, for the duration of its
1100 use as a public school.
1101 (d) As used in this subsection, the terms "business
1102 partner" or "municipality" may include more than one business or
1103 municipality to form a charter school-in-the-workplace or
1104 charter school-in-a-municipality.
1105 (16) EXEMPTION FROM STATUTES.--
1106 (a) A charter school shall operate in accordance with its
1107 charter and shall be exempt from all statutes in chapters 1000-
1108 1013. However, a charter school shall be in compliance with the
1109 following statutes in chapters 1000-1013:
1110 1. Those statutes specifically applying to charter
1111 schools, including this section.
1112 2. Those statutes pertaining to the student assessment
1113 program and school grading system.
1114 3. Those statutes pertaining to the provision of services
1115 to students with disabilities.
1116 4. Those statutes pertaining to civil rights, including s.
1117 1000.05, relating to discrimination.
1118 5. Those statutes pertaining to student health, safety,
1119 and welfare.
1120 (b) Additionally, a charter school shall be in compliance

1121 with the following statutes:
1122 1. Section 286.011, relating to public meetings and
1123 records, public inspection, and criminal and civil penalties.
1124 2. Chapter 119, relating to public records.
1125 (17) FUNDING.--Students enrolled in a charter school,
1126 regardless of the sponsorship, shall be funded as if they are in
1127 a basic program or a special program, the same as students
1128 enrolled in other public schools in the school district. Funding
1129 for a charter lab school shall be as provided in s. 1002.32.
1130 (a) Each charter school shall report its student
1131 enrollment to the district school board as required in s.
1132 1011.62, and in accordance with the definitions in s. 1011.61.
1133 The district school board shall include each charter school's
1134 enrollment in the district's report of student enrollment. All
1135 charter schools submitting student record information required
1136 by the Department of Education shall comply with the Department
1137 of Education's guidelines for electronic data formats for such
1138 data, and all districts shall accept electronic data that
1139 complies with the Department of Education's electronic format.
1140 (b) The basis for the agreement for funding students
1141 enrolled in a charter school shall be the sum of the school
1142 district's operating funds from the Florida Education Finance
1143 Program as provided in s. 1011.62 and the General Appropriations
1144 Act, including gross state and local funds, discretionary
1145 lottery funds, and funds from the school district's current
1146 operating discretionary millage levy; divided by total funded
1147 weighted full-time equivalent students in the school district;
1148 multiplied by the weighted full-time equivalent students for the

1149 charter school. Charter schools whose students or programs meet
1150 the eligibility criteria in law shall be entitled to their
1151 proportionate share of categorical program funds included in the
1152 total funds available in the Florida Education Finance Program
1153 by the Legislature, including transportation. Total funding for
1154 each charter school shall be recalculated during the year to
1155 reflect the revised calculations under the Florida Education
1156 Finance Program by the state and the actual weighted full-time
1157 equivalent students reported by the charter school during the
1158 full-time equivalent student survey periods designated by the
1159 Commissioner of Education.
1160 (c) If the district school board is providing programs or
1161 services to students funded by federal funds, any eligible
1162 students enrolled in charter schools in the school district
1163 shall be provided federal funds for the same level of service
1164 provided students in the schools operated by the district school
1165 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
1166 charter schools shall receive all federal funding for which the
1167 school is otherwise eligible, including Title I funding, not
1168 later than 5 months after the charter school first opens and
1169 within 5 months after any subsequent expansion of enrollment.
1170 (d) District school boards shall make ~~every effort to~~
1171 ~~ensure that charter schools receive~~ timely and efficient payment
1172 and reimbursement to charter schools, including processing
1173 paperwork required to access special state and federal funding
1174 for which they may be eligible. The district school board may
1175 distribute funds to a charter school for up to 3 months based on
1176 the projected full-time equivalent student membership of the

1177 charter school. Thereafter, the results of full-time equivalent
1178 student membership surveys shall be used in adjusting the amount
1179 of funds distributed monthly to the charter school for the
1180 remainder of the fiscal year. The payment shall be issued no
1181 later than 10 working days after the district school board
1182 receives a distribution of state or federal funds. If a warrant
1183 for payment is not issued within 10 ~~30~~ working days after
1184 receipt of funding by the district school board, the school
1185 district shall pay to the charter school, in addition to the
1186 amount of the scheduled disbursement, interest at a rate of 5 ~~1~~
1187 percent per month calculated on a daily basis on the unpaid
1188 balance from the expiration of the 10 working days ~~30 day period~~
1189 until such time as the warrant is issued. The Commissioner of
1190 Education is authorized to withhold lottery funds from school
1191 districts that repeatedly fail to make timely payments and
1192 reimbursements.
1193 (e) The State Board of Education is authorized to impose a
1194 fine on or withhold lottery funds from a school district for any
1195 violation of the procedural requirements for charter school
1196 application, termination, or nonrenewal appeals regardless of
1197 whether the violation affects the fairness of the appeal process
1198 or the correctness of the action taken by the school district.
1199 Prior to the imposition of a fine or the withholding of lottery
1200 funds under this paragraph, the State Board of Education shall
1201 provide the school district with notice of the amount of the
1202 proposed fine or lottery funds to be withheld and an opportunity
1203 to be heard at a subsequent meeting of the State Board of
1204 Education. The funds collected for fines under this paragraph

1205 shall be taken from the school district's administrative fee
1206 under paragraph (20)(a) and disbursed to the prevailing charter
1207 school appellant under this section or, if the charter school
1208 appellant's appeal is denied, in equal amounts to each of the
1209 charter schools within the school district. The imposition of a
1210 fine under this paragraph shall not exceed $10,000 and is a
1211 final action subject to judicial review in the district court of
1212 appeals.
1213 (18) FACILITIES.--
1214 (a) A startup charter school shall utilize facilities
1215 which comply with the Florida Building Code pursuant to chapter
1216 553 except for the State Requirements for Educational
1217 Facilities. Conversion charter schools shall utilize facilities
1218 that comply with the State Requirements for Educational
1219 Facilities, provided that the school district and the charter
1220 school have entered into a mutual management plan with
1221 sufficient funding from the school district to comply with the
1222 State Requirements for Educational Facilities. Charter schools,
1223 with the exception of conversion charter schools, are not
1224 required to comply, but may choose to comply, with the State
1225 Requirements for Educational Facilities of the Florida Building
1226 Code adopted pursuant to s. 1013.37. The local governing
1227 authority shall not adopt or impose local building requirements
1228 or restrictions that are more stringent than those found in the
1229 Florida Building Code. The agency having jurisdiction for
1230 inspection of a facility and issuance of a certificate of
1231 occupancy shall be the local municipality or, if in an
1232 unincorporated area, the county governing authority.

1233 (b) A charter school shall utilize facilities that comply
1234 with the Florida Fire Prevention Code, pursuant to s. 633.025,
1235 as adopted by the authority in whose jurisdiction the facility
1236 is located as provided in paragraph (a).
1237 (c) Any facility, or portion thereof, used to house a
1238 charter school whose charter has been approved by the sponsor
1239 and the governing board, pursuant to subsection (7), shall be
1240 exempt from ad valorem taxes pursuant to s. 196.1983. Library,
1241 community service, museum, performing arts, theatre, cinema,
1242 church, community college, college, and university facilities
1243 may provide space to charter schools within their facilities
1244 under their preexisting zoning and land use designations.
1245 (d) Charter school facilities are exempt from assessments
1246 of fees for building permits, except as provided in s. 553.80,
1247 fees ~~and~~ for building and occupational licenses, and ~~from~~
1248 ~~assessments of~~ impact fees or service availability fees.
1249 (e) If a district school board facility or property is
1250 available because it is surplus, marked for disposal, or
1251 otherwise unused, it shall be provided for a charter school's
1252 use on the same basis as it is made available to other public
1253 schools in the district. A charter school receiving property
1254 from the school district may not sell or dispose of such
1255 property without written permission of the school district.
1256 Similarly, for an existing public school converting to charter
1257 status, no rental or leasing fee for the existing facility or
1258 for the property normally inventoried to the conversion school
1259 may be charged by the district school board to the parents and
1260 teachers organizing the charter school. The charter school

1261 ~~organizers~~ shall agree to reasonable maintenance provisions in
1262 order to maintain the facility in a manner similar to district
1263 school board standards. The Public Education Capital Outlay
1264 maintenance funds or any other maintenance funds generated by
1265 the facility operated as a conversion school shall remain with
1266 the conversion school.
1267 (f) To the extent that charter school facilities are
1268 specifically created to mitigate the educational impact created
1269 by the development of new residential dwelling units, pursuant
1270 to subparagraph (2)(c)4., some of or all of the educational
1271 impact fees required to be paid in connection with the new
1272 residential dwelling units may be designated instead for the
1273 construction of the charter school facilities that will mitigate
1274 the student station impact. Such facilities shall be built to
1275 the State Requirements for Educational Facilities and shall be
1276 owned by a public or nonprofit entity. The local school district
1277 retains the right to monitor and inspect such facilities to
1278 ensure compliance with the State Requirements for Educational
1279 Facilities. If a facility ceases to be used for public
1280 educational purposes, either the facility shall revert to the
1281 school district subject to any debt owed on the facility, or the
1282 owner of the facility shall have the option to refund all
1283 educational impact fees utilized for the facility to the school
1284 district. The district and the owner of the facility may
1285 contractually agree to another arrangement for the facilities if
1286 the facilities cease to be used for educational purposes. The
1287 owner of property planned or approved for new residential
1288 dwelling units and the entity levying educational impact fees

1289 shall enter into an agreement that designates the educational
1290 impact fees that will be allocated for the charter school
1291 student stations and that ensures the timely construction of the
1292 charter school student stations concurrent with the expected
1293 occupancy of the residential units. The application for use of
1294 educational impact fees shall include an approved charter school
1295 application. To assist the school district in forecasting
1296 student station needs, the entity levying the impact fees shall
1297 notify the affected district of any agreements it has approved
1298 for the purpose of mitigating student station impact from the
1299 new residential dwelling units.
1300 (19) CAPITAL OUTLAY FUNDING.--Charter schools are eligible
1301 for capital outlay funds pursuant to s. 1013.62.
1302 (20) SERVICES.--
1303 (a) A sponsor shall provide certain administrative and
1304 educational services to charter schools. These services shall
1305 include contract management services; full-time equivalent and
1306 data reporting services; exceptional student education
1307 administration and evaluation services; services related to
1308 eligibility and reporting duties required to ensure that school
1309 lunch services under the federal lunch program, consistent with
1310 the needs of the charter school, are provided by the school
1311 district at the request of the charter school; test
1312 administration services, including payment of the costs of
1313 state-required or district-required student assessments;
1314 processing of teacher certificate data services; and information
1315 services, including equal access to student information systems
1316 that are used by public schools in the district in which the

1317 charter school is located. Student performance data for each
1318 student in a charter school, including, but not limited to, FCAT
1319 scores, standardized test scores, individual report cards, and
1320 student performance measures, shall be provided by the sponsor
1321 to a charter school in the same manner provided to other public
1322 schools in the district. A total administrative fee for the
1323 provision of such services shall be calculated based upon up to
1324 5 percent of the available funds defined in paragraph (17)(b)
1325 for all students. However, a sponsor may only withhold up to a
1326 5-percent administrative fee for enrollment for up to and
1327 including 500 students. For charter schools with a population of
1328 501 or more students, the difference between the total
1329 administrative fee calculation and the amount of the
1330 administrative fee withheld may only be used for capital outlay
1331 purposes specified in s. 1013.62(4) ~~(2)~~. Sponsors shall not
1332 charge charter schools any additional fees or surcharges for
1333 administrative and educational services in addition to the
1334 maximum 5-percent administrative fee withheld pursuant to this
1335 paragraph.
1336 (b) If goods and services are made available to the
1337 charter school through the contract with the school district,
1338 they shall be provided to the charter school at a rate no
1339 greater than the district's actual cost unless mutually agreed
1340 upon by the charter school and the sponsor in a contract
1341 negotiated separately from the charter. When mediation has
1342 failed to resolve disputes over contracted services or
1343 contractual matters not included in the charter, an appeal may
1344 be made for a dispute resolution hearing before the Charter

1345 School Appeal Commission. To maximize the use of state funds,
1346 school districts shall allow charter schools to participate in
1347 the sponsor's bulk purchasing program if applicable.
1348 (c) Transportation of charter school students shall be
1349 provided by the charter school consistent with the requirements
1350 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
1351 body of the charter school may provide transportation through an
1352 agreement or contract with the district school board, a private
1353 provider, or parents. The charter school and the sponsor shall
1354 cooperate in making arrangements that ensure that transportation
1355 is not a barrier to equal access for all students residing
1356 within a reasonable distance of the charter school as determined
1357 in its charter.
1358 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.--The
1359 Department of Education shall provide information to the public,
1360 directly and through sponsors, both on how to form and operate a
1361 charter school and on how to enroll in charter schools once they
1362 are created. This information shall include a standard
1363 application format, charter format, and charter renewal format
1364 which shall include the information specified in subsection (7).
1365 These formats shall ~~This application format may~~ be used as
1366 guidelines by charter school sponsors ~~chartering entities~~.
1367 (22) CHARTER SCHOOL REVIEW PANEL AND LEGISLATIVE REVIEW.--
1368 (a) The Department of Education shall staff and regularly
1369 convene a Charter School Review Panel in order to review issues,
1370 practices, and policies regarding charter schools. The
1371 composition of the review panel shall include individuals with
1372 experience in finance, administration, law, education, and

1373 school governance, and individuals familiar with charter school
1374 construction and operation. The panel shall include two
1375 appointees each from the Commissioner of Education, the
1376 President of the Senate, and the Speaker of the House of
1377 Representatives. The Governor shall appoint three members of the
1378 panel and shall designate the chair. Each member of the panel
1379 shall serve a 1-year term, unless renewed by the office making
1380 the appointment. The panel shall make recommendations to the
1381 Legislature, to the Department of Education, to charter schools,
1382 and to school districts for improving charter school operations
1383 and oversight and for ensuring best business practices at and
1384 fair business relationships with charter schools.
1385 (b) The Legislature shall review the operation of charter
1386 schools during the 2010 ~~2005~~ Regular Session of the Legislature.
1387 (23) ANALYSIS OF CHARTER SCHOOL PERFORMANCE.--Upon receipt
1388 of the annual report required by paragraph (9)(m) ~~(l)~~, the
1389 Department of Education shall provide to the State Board of
1390 Education, the Commissioner of Education, the Governor, the
1391 President of the Senate, and the Speaker of the House of
1392 Representatives an analysis and comparison of the overall
1393 performance of charter school students, to include all students
1394 whose scores are counted as part of the statewide assessment
1395 program, versus comparable public school students in the
1396 district as determined by the statewide assessment program
1397 currently administered in the school district, and other
1398 assessments administered pursuant to s. 1008.22(3).
1399 (24) RULEMAKING.--The Department of Education, after
1400 consultation with school districts and charter school directors,

1401 shall recommend that the State Board of Education adopt rules to
1402 implement specific subsections of this section. Such rules shall
1403 require minimum paperwork and shall not limit charter school
1404 flexibility authorized by statute.
1405 Section 2. Subsection (5) of section 218.39, Florida
1406 Statutes, is amended to read:
1407 218.39 Annual financial audit reports.--
1408 (5) At the conclusion of the audit, the auditor shall
1409 discuss with the chair of each local governmental entity or the
1410 chair's designee, or with the elected official of each county
1411 agency or with the elected official's designee, or with the
1412 chair of the district school board or the chair's designee, or
1413 with the chair of the board of the charter school or the chair's
1414 designee, or with the chair of the charter technical career
1415 center or the chair's designee, as appropriate, all of the
1416 auditor's comments that will be included in the audit report. If
1417 the officer is not available to discuss the auditor's comments,
1418 their discussion is presumed when the comments are delivered in
1419 writing to his or her office. The auditor shall notify each
1420 member of the governing body of a local governmental entity, ~~or~~
1421 district school board, or charter school for which deteriorating
1422 financial conditions exist that may cause a condition described
1423 in s. 218.503(1) to occur if actions are not taken to address
1424 such conditions.
1425 Section 3. Section 218.50, Florida Statutes, is amended to
1426 read:
1427 218.50 Short title.--Sections 218.50-218.504 may be cited
1428 as the "Local Governmental Entity, Charter School, and District

1429 School Board Financial Emergencies Act."
1430 Section 4. Section 218.501, Florida Statutes, is amended
1431 to read:
1432 218.501 Purposes.--The purposes of ss. 218.50-218.504 are:
1433 (1) To promote the fiscal responsibility of local
1434 governmental entities, charter schools, and district school
1435 boards.
1436 (2) To assist local governmental entities, charter
1437 schools, and district school boards in providing essential
1438 services without interruption and in meeting their financial
1439 obligations.
1440 (3) To assist local governmental entities, charter
1441 schools, and district school boards through the improvement of
1442 local financial management procedures.
1443 Section 5. Subsections (1) and (2) of section 218.503,
1444 Florida Statutes, are amended, a new subsection (4) is added,
1445 and subsections (4) and (5) of that section are renumbered as
1446 subsections (5) and (6), respectively, to read:
1447 218.503 Determination of financial emergency.--
1448 (1) Local governmental entities, charter schools, and
1449 district school boards shall be subject to review and oversight
1450 by the Governor, charter school sponsor, or the Commissioner of
1451 Education, as appropriate, when any one of the following
1452 conditions occurs:
1453 (a) Failure within the same fiscal year in which due to
1454 pay short-term loans or failure to make bond debt service or
1455 other long-term debt payments when due, as a result of a lack of
1456 funds.

1457 (b) Failure to pay uncontested claims from creditors
1458 within 90 days after the claim is presented, as a result of a
1459 lack of funds.
1460 (c) Failure to transfer at the appropriate time, due to
1461 lack of funds:
1462 1. Taxes withheld on the income of employees; or
1463 2. Employer and employee contributions for:
1464 a. Federal social security; or
1465 b. Any pension, retirement, or benefit plan of an
1466 employee.
1467 (d) Failure for one pay period to pay, due to lack of
1468 funds:
1469 1. Wages and salaries owed to employees; or
1470 2. Retirement benefits owed to former employees.
1471 (e) An unreserved or total fund balance or retained
1472 earnings deficit, or unrestricted or total net assets deficit,
1473 as reported on the balance sheet or statement of net assets on
1474 the general purpose or fund financial statements, for which
1475 sufficient resources of the local governmental entity, as
1476 reported on the balance sheet or statement of net assets on the
1477 general purpose or fund financial statements, are not available
1478 to cover the deficit. Resources available to cover reported
1479 deficits include net assets that are not otherwise restricted by
1480 federal, state, or local laws, bond covenants, contractual
1481 agreements, or other legal constraints. Fixed or capital assets,
1482 the disposal of which would impair the ability of a local
1483 governmental entity to carry out its functions, are not
1484 considered resources available to cover reported deficits.

1485 (2) A local governmental entity shall notify the Governor
1486 and the Legislative Auditing Committee, a charter school shall
1487 notify the charter school sponsor and the Legislative Auditing
1488 Committee, and a district school board shall notify the
1489 Commissioner of Education and the Legislative Auditing
1490 Committee, when one or more of the conditions specified in
1491 subsection (1) have occurred or will occur if action is not
1492 taken to assist the local governmental entity, charter school,
1493 or district school board. In addition, any state agency must,
1494 within 30 days after a determination that one or more of the
1495 conditions specified in subsection (1) have occurred or will
1496 occur if action is not taken to assist the local governmental
1497 entity, charter school, or district school board, notify the
1498 Governor, charter school sponsor, or the Commissioner of
1499 Education, as appropriate, and the Legislative Auditing
1500 Committee.
1501 (4) Upon notification that one or more of the conditions
1502 in subsection (1) exist, the charter school sponsor or the
1503 sponsor's designee shall contact the charter school governing
1504 body to determine what actions have been taken by the charter
1505 school governing body to resolve the condition. The charter
1506 school sponsor has the authority to require and approve a
1507 financial recovery plan, to be prepared by the charter school
1508 governing body, prescribing actions that will cause the charter
1509 school to no longer be subject to this section. The Department
1510 of Education shall establish guidelines for developing such
1511 plans.
1512 Section 6. Subsection (1) of section 218.504, Florida

1513 Statutes, is amended to read:
1514 218.504 Cessation of state action.--The Governor or the
1515 Commissioner of Education, as appropriate, has the authority to
1516 terminate all state actions pursuant to ss. 218.50-218.504.
1517 Cessation of state action must not occur until the Governor or
1518 the Commissioner of Education, as appropriate, has determined
1519 that:
1520 (1) The local governmental entity, charter school, or
1521 district school board:
1522 (a) Has established and is operating an effective
1523 financial accounting and reporting system.
1524 (b) Has resolved the conditions outlined in s. 218.503(1).
1525 Section 7. Paragraph (e) of subsection (7) and subsection
1526 (8) of section 11.45, Florida Statutes, are amended to read:
1527 11.45 Definitions; duties; authorities; reports; rules.--
1528 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.--
1529 (e) The Auditor General shall notify the Governor or the
1530 Commissioner of Education, as appropriate, and the Legislative
1531 Auditing Committee of any audit report reviewed by the Auditor
1532 General pursuant to paragraph (b) which contains a statement
1533 that a local governmental entity, charter school, or district
1534 school board has met one or more of the conditions specified in
1535 s. 218.503. If the Auditor General requests a clarification
1536 regarding information included in an audit report to determine
1537 whether a local governmental entity, charter school, or district
1538 school board has met one or more of the conditions specified in
1539 s. 218.503, the requested clarification must be provided within
1540 45 days after the date of the request. If the local governmental

1541 entity, charter school, or district school board does not comply
1542 with the Auditor General's request, the Auditor General shall
1543 notify the Legislative Auditing Committee. If, after obtaining
1544 the requested clarification, the Auditor General determines that
1545 the local governmental entity, charter school, or district
1546 school board has met one or more of the conditions specified in
1547 s. 218.503, he or she shall notify the Governor or the
1548 Commissioner of Education, as appropriate, and the Legislative
1549 Auditing Committee.
1550 (8) RULES OF THE AUDITOR GENERAL.--The Auditor General, in
1551 consultation with the Board of Accountancy, shall adopt rules
1552 for the form and conduct of all financial audits performed by
1553 independent certified public accountants pursuant to ss.
1554 215.981, 218.39, 1001.453, 1004.28, and 1004.70. The rules for
1555 audits of local governmental entities, charter schools, and
1556 district school boards must include, but are not limited to,
1557 requirements for the reporting of information necessary to carry
1558 out the purposes of the Local Governmental Entity, Charter
1559 School, and District School Board Financial Emergencies Act as
1560 stated in s. 218.501.
1561 Section 8. Paragraph (a) of subsection (9) and paragraph
1562 (b) of subsection (11) of section 1002.32, Florida Statutes, are
1563 amended to read:
1564 1002.32 Developmental research (laboratory) schools.--
1565 (9) FUNDING.--Funding for a lab school, including a
1566 charter lab school, shall be provided as follows:
1567 (a) Each lab school shall be allocated its proportional
1568 share of operating funds from the Florida Education Finance

1569 Program as provided in s. 1011.62 based on the county in which
1570 the lab school is located and the General Appropriations Act.
1571 The nonvoted ad valorem millage that would otherwise be required
1572 for lab schools shall be allocated from state funds. The
1573 required local effort funds calculated pursuant to s. 1011.62
1574 shall be allocated from state funds to the schools as a part of
1575 the allocation of operating funds pursuant to s. 1011.62. Each
1576 eligible lab school in operation as of September 1, 2002, shall
1577 also receive a proportional share of the sparsity supplement as
1578 calculated pursuant to s. 1011.62. In addition, each lab school
1579 shall receive its proportional share of all categorical funds,
1580 with the exception of s. 1011.68, and new categorical funds
1581 enacted after July 1, 1994, for the purpose of elementary or
1582 secondary academic program enhancement. <u>However, if a lab</u>
1583 <u>school, in the fulfillment of its requirements to have a</u>
1584 <u>representative student population pursuant to subsection (4),</u>
1585 <u>elects to provide student transportation, the lab school shall</u>
1586 <u>be eligible for funding pursuant to s. 1011.68.</u> The sum of funds
1587 available as provided in this paragraph shall be included
1588 annually in the Florida Education Finance Program and
1589 appropriate categorical programs funded in the General
1590 Appropriations Act.
1591 (11) EXCEPTIONS TO LAW.--To encourage innovative practices
1592 and facilitate the mission of the lab schools, in addition to
1593 the exceptions to law specified in s. 1001.23(2), the following
1594 exceptions shall be permitted for lab schools:
1595 (b) With the exception of s. 1001.42(16), s. 1001.42 shall
1596 be held in abeyance<u>, except that a lab school, in the</u>

1597 fulfillment of its requirements to have a representative student
1598 population pursuant to subsection (4), may elect to provide
1599 transportation in accordance with s. 1001.42(8). Reference to
1600 district school boards in s. 1001.42(16) shall mean the
1601 president of the university or the president's designee.
1602 Section 9. Subsection (3) of section 1003.05, Florida
1603 Statutes, is amended to read:
1604 1003.05 Assistance to transitioning students from military
1605 families.--
1606 (3) Dependent children of active duty military personnel
1607 who otherwise meet the eligibility criteria for special academic
1608 programs offered through public schools shall be given first
1609 preference for admission to such programs even if the program is
1610 being offered through a public school other than the school to
1611 which the student would generally be assigned and the school at
1612 which the program is being offered has reached its maximum
1613 enrollment. If such a program is offered through a public school
1614 other than the school to which the student would generally be
1615 assigned, the parent or guardian of the student must assume
1616 responsibility for transporting the student to that school. For
1617 purposes of this subsection, special academic programs include
1618 ~~charter schools,~~ magnet schools, advanced studies programs,
1619 advanced placement, dual enrollment, and International
1620 Baccalaureate.
1621 Section 10. Effective July 1, 2007, subsection (2) of
1622 section 1012.74, Florida Statutes, is amended to read:
1623 1012.74 Florida educators professional liability insurance
1624 protection.--

1625 (2)(a) Educator professional liability coverage for all
1626 instructional personnel, including charter school instructional
1627 personnel, as defined by s. 1012.01(2), who are full-time
1628 personnel, as defined by the district school board policy, shall
1629 be provided by specific appropriations under the General
1630 Appropriations Act.
1631 (b) Educator professional liability coverage shall be
1632 extended at cost to all instructional personnel, including
1633 charter school instructional personnel, as defined by s.
1634 1012.01(2), who are part-time personnel, as defined by the
1635 district school board policy, and choose to participate in the
1636 state-provided program.
1637 (c) Educator professional liability coverage shall be
1638 extended at cost to all administrative personnel, including
1639 administrative personnel in charter schools, as defined by s.
1640 1012.01(3), who choose to participate in the state-provided
1641 program.
1642 Section 11. Section 1013.62, Florida Statutes, is amended
1643 to read:
1644 1013.62 Charter schools capital outlay funding.--
1645 (1) In each year in which funds are appropriated for
1646 charter school capital outlay purposes, the Commissioner of
1647 Education shall allocate the funds among eligible charter
1648 schools. To be eligible for a funding allocation, a charter
1649 school must be one of the following:
1650 (a) The same school that received capital outlay funding
1651 in the 2002-2003 fiscal year.
1652 (b) A charter school that is an expanded feeder pattern of

1653 a charter school that received capital outlay funding in the
1654 2002-2003 fiscal year.
1655 (2) If an appropriation for charter school capital outlay
1656 funds is less than the appropriation in the 2002-2003 fiscal
1657 year, the funds shall be prorated among schools eligible
1658 pursuant to subsection (1).
1659 (3) If an appropriation for charter school capital outlay
1660 funds is greater than the appropriation in the 2002-2003 fiscal
1661 year, the funds shall be allocated to schools eligible pursuant
1662 to subsection (1) and to charter schools that:
1663 (a)1. Have been in operation for 3 or more years;
1664 2. Are ~~Be~~ an expanded feeder chain of a charter school
1665 within the same school district that is currently receiving
1666 charter school capital outlay funds; or
1667 3. Have been accredited by the Commission on Schools of
1668 the Southern Association of Colleges and Schools.
1669 (b) Have financial stability for future operation as a
1670 charter school.
1671 (c) Have received a school grade of "A" or "B," pursuant
1672 to s. 1008.34, during at least 3 of the past 4 school years
1673 ~~satisfactory student achievement based on state accountability~~
1674 ~~standards applicable to the charter school~~.
1675 (d) Have received final approval from its sponsor pursuant
1676 to s. 1002.33 for operation during that fiscal year.
1677 (e) Serve students in facilities that are not provided by
1678 the charter school's sponsor.
1679
1680 First priority for allocating the amount in excess of the

1681 appropriation for the 2002-2003 fiscal year shall be to prorate
1682 the excess funds among charter schools with long-term debt or
1683 long-term leases to the extent that the initial allocation is
1684 insufficient to provide one-fifteenth of the cost-per-student
1685 station specified in s. 1013.64(6)(b) and second priority shall
1686 be to other eligible charter schools. Prior to the release of
1687 capital outlay funds to a school district on behalf of the
1688 charter school, the Department of Education shall ensure that
1689 the district school board and the charter school governing board
1690 enter into a written agreement that includes provisions for the
1691 reversion of any unencumbered funds and all equipment and
1692 property purchased with public education funds to the ownership
1693 of the district school board, as provided for in subsection (5)
1694 ~~(3)~~, in the event that the school terminates operations. Any
1695 funds recovered by the state shall be deposited in the General
1696 Revenue Fund. A charter school is not eligible for a funding
1697 allocation if it was created by the conversion of a public
1698 school and operates in facilities provided by the charter
1699 school's sponsor for a nominal fee or at no charge or if it is
1700 directly or indirectly operated by the school district. Unless
1701 otherwise provided in the General Appropriations Act, the
1702 funding allocation for each eligible charter school shall be
1703 determined by multiplying the school's projected student
1704 enrollment by one-fifteenth of the cost-per-student station
1705 specified in s. 1013.64(6)(b) for an elementary, middle, or high
1706 school, as appropriate. If the funds appropriated are not
1707 sufficient, the commissioner shall prorate the available funds
1708 among eligible charter schools. However, no charter school or

1709 charter lab school shall receive state charter school capital
1710 outlay funds in excess of the one-fifteenth cost per student
1711 station formula if the charter school's combination of state
1712 charter school capital outlay funds, capital outlay funds
1713 calculated through the reduction in the administrative fee
1714 provided in s. 1002.33(20), and capital outlay funds allowed in
1715 s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per
1716 student station formula. Funds shall be distributed on the basis
1717 of the capital outlay full-time equivalent membership by grade
1718 level, which shall be calculated by averaging the results of the
1719 second and third enrollment surveys. The Department of Education
1720 shall distribute capital outlay funds monthly, beginning in the
1721 first quarter of the fiscal year, based on one-twelfth of the
1722 amount the department reasonably expects the charter school to
1723 receive during that fiscal year. The commissioner shall adjust
1724 subsequent distributions as necessary to reflect each charter
1725 school's actual student enrollment as reflected in the second
1726 and third enrollment surveys. The commissioner shall establish
1727 the intervals and procedures for determining the projected and
1728 actual student enrollment of eligible charter schools.
1729 (4) ~~(2)~~ A charter school's governing body may use charter
1730 school capital outlay funds for the following purposes:
1731 (a) Purchase of real property.
1732 (b) Construction of school facilities.
1733 (c) Purchase, lease-purchase, or lease of permanent or
1734 relocatable school facilities.
1735 (d) Purchase of vehicles to transport students to and from
1736 the charter school.

1737 (e) Renovation, repair, furnishing, and maintenance of
1738 school facilities that the charter school owns or is purchasing
1739 through a lease-purchase or long-term lease of 5 years or longer
1740 and purchasing equipment for such facilities.
1741
1742 Conversion charter schools may use capital outlay funds received
1743 through the reduction in the administrative fee provided in s.
1744 1002.33(20) for renovation, repair, and maintenance of school
1745 facilities that are owned by the sponsor.
1746 (5) ~~(3)~~ When a charter school is nonrenewed or terminated,
1747 any unencumbered funds and all equipment and property purchased
1748 with district public funds shall revert to the ownership of the
1749 district school board, as provided for in s. 1002.33(8)(e) and
1750 (f). In the case of a charter lab school, any unencumbered funds
1751 and all equipment and property purchased with university public
1752 funds shall revert to the ownership of the state university that
1753 issued the charter. The reversion of such equipment, property,
1754 and furnishings shall focus on recoverable assets, but not on
1755 intangible or irrecoverable costs such as rental or leasing
1756 fees, normal maintenance, and limited renovations. The reversion
1757 of all property secured with public funds is subject to the
1758 complete satisfaction of all lawful liens or encumbrances. If
1759 there are additional local issues such as the shared use of
1760 facilities or partial ownership of facilities or property, these
1761 issues shall be agreed to in the charter contract prior to the
1762 expenditure of funds.
1763 (6) ~~(4)~~ The Commissioner of Education shall specify
1764 procedures for submitting and approving requests for funding

1765 under this section and procedures for documenting expenditures.
1766 (7) ~~(5)~~ The annual legislative budget request of the
1767 Department of Education shall include a request for capital
1768 outlay funding for charter schools. The request shall be based
1769 on the projected number of students to be served in charter
1770 schools who meet the eligibility requirements of this section. A
1771 dedicated funding source, if identified in writing by the
1772 Commissioner of Education and submitted along with the annual
1773 charter school legislative budget request, may be considered an
1774 additional source of funding.
1775 (8) ~~(6)~~ Unless authorized otherwise by the Legislature,
1776 allocation and proration of charter school capital outlay funds
1777 shall be made to eligible charter schools by the Commissioner of
1778 Education in an amount and in a manner authorized by subsections
1779 (2) and (3) ~~subsection (1)~~.
1780 ~~(7) Notwithstanding the provisions of this section,~~
1781 ~~beginning in the 2003-2004 fiscal year:~~
1782 ~~(a) If the appropriation for charter school capital outlay~~
1783 ~~funds is no greater than the 2002-2003 appropriation, the funds~~
1784 ~~shall be allocated according to the formula outlined in~~
1785 ~~subsection (1) to:~~
1786 ~~1. The same schools that received funding in 2002-2003.~~
1787 ~~2. Schools that are an expanded feeder pattern of schools~~
1788 ~~that received funding in 2002-2003.~~
1789 ~~3. Schools that have an approved charter and are serving~~
1790 ~~students at the start of the 2003-2004 school year and either~~
1791 ~~incurred long term financial obligations prior to January 31,~~
1792 ~~2003, or began construction on educational facilities prior to~~

1793 ~~December 31, 2002.~~
1794 ~~(b) If the appropriation for charter school capital outlay~~
1795 ~~funds is less than the 2002-2003 appropriation, the funds shall~~
1796 ~~be prorated among the schools eligible in paragraph (a).~~
1797 ~~(c) If the appropriation for charter school capital outlay~~
1798 ~~funds is greater than the 2002-2003 appropriation, the amount of~~
1799 ~~funds provided in the 2002-2003 appropriation shall be allocated~~
1800 ~~according to paragraph (a). First priority for allocating the~~
1801 ~~amount in excess of the 2002-2003 appropriation shall be to~~
1802 ~~prorate the excess funds among the charter schools with long-~~
1803 ~~term debt or long term lease to the extent that the initial~~
1804 ~~allocation is insufficient to provide one fifteenth of the cost~~
1805 ~~per student station specified in s. 1013.64(6)(b), and second~~
1806 ~~priority shall be to other eligible charter schools.~~
1807 Section 12. Except as otherwise expressly provided in this
1808 act, this act shall take effect July 1, 2006.

HB 7119

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7119 PCB PKT 06-02 Student Athlete Recruiting
SPONSOR(S): PreK-12 Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: PreK-12 Committee	8 Y, 0 N	Beagle	Mizereck
1) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill requires the Florida High School Athletic Association (FHSAA) to hold in abeyance certain newly adopted bylaws governing student athlete residence and transfer. The bill creates a task force to review issues concerning student athlete recruiting and make recommendations that preserve parents' rights to school choice and protect the integrity of Florida's interscholastic athletic programs.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an independent review of documented recruiting violations by FHSAA member schools.

The bill appropriates $60,000 from the General Revenue Fund to OPPAGA to support the work of the Student Athlete Recruiting Task Force. The sum of $50,000 is appropriated from the General Revenue Fund to OPPAGA to fund its independent review of secondary school recruiting violations.

The provisions of the bill are effective upon becoming law.

The bill has a minimal fiscal impact. See Fiscal Impact on State Government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
Provide Limited Government-- The bill requires the FHSAA to hold in abeyance certain bylaws governing student athlete residence and transfer.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:
Founded in 1920, the FHSAA is a non-profit organization that governs interscholastic athletics among Florida's public and private secondary schools. In 1997, the Florida Legislature enacted section 1006.20, F.S., which sets forth FHSAA's organizational structure and governing authority in statute.

Section 1006.20, F.S. grants FHSAA authority to adopt bylaws governing participation of member schools and individual student athletes unless specifically provided for in statute. Statute specifically requires FHSAA bylaws governing student athlete residence and transfer to allow student athletes to be eligible for participation in athletics in the school the student first enrolls in each year.[1] Statute also requires FHSAA to adopt bylaws that specifically prohibit recruiting of student athletes for athletic purposes.[2]

In January of 2006, the FHSAA Representative Assembly voted to adopt revisions to sections 11.01, 11.02, 11.2, 11.3, and 11.4 of the FHSAA bylaws governing student athlete residence and transfer. The revised bylaws are intended to curtail recruiting of student athletes by placing certain penalties on student athletes who transfer to another school. The revised bylaws apply to all transfers except a move by the student and all members of the student's household that necessitates a change in schools.[3] According to the revised bylaws, student athletes who transfer to another school may not participate in varsity athletics for one calendar year but may participate in junior varsity athletics during this time.[4] Upon the expiration of one calendar year, the student athlete is deemed to have established residency at the new school and may participate in varsity athletics. The revised bylaws contain several exceptions which, if applicable, allow student athletes to transfer without penalty. The receiving school must first make an application for waiver to the FHSAA on the student's behalf. The FHSAA commissioner reviews the waiver application to determine whether the exception applies and the waiver is justified. Subsequent procedures are available for appealing waiver denials and for undue hardship requests. This rule becomes effective for the 2007-2008 school year.

At its February 7, 2006 meeting, the PreK-12 Committee heard public testimony from proponents and opponents of the new FHSAA residence and transfer bylaws. Opponents of the bylaws testified that the new rules violate the statutory provisions on residence and transfer bylaws contained in s.1006.20(2)(a) and impede parents' rights to school choice. Proponents of the bylaws stated that the rules were necessary to prevent student athletes from "shopping" for better teams and more advantageous opportunities for playing time, as well as curtailing illegal recruiting of student athletes.

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[1] Section 1006.20(2)(a), F.S.
[2] Section 1006.20(2)(b), F.S.
[3] Section 11.4, Proposed 2006 revisions to the Bylaws of the Florida High School Athletic Association, Inc.
[4] Id.

Effect of Proposed Changes:
The bill requires FHSAA to hold in abeyance sections 11.01, 11.02, 11.2, 11.3, and 11.4 of the FHSAA bylaws until July 1, 2007. The bill creates a balanced task force comprised of home school and public and private secondary school proponents and opponents of the revised bylaws. The task force must make recommendations to the Governor and the Legislature that preserve parents' rights to school choice and protect the integrity of Florida's interscholastic athletic programs. The bill requires OPPAGA to provide administrative support and staff for the task force.

The bill also requires OPPAGA to conduct an independent review of secondary school recruiting violations among FHSAA member schools. The bill requires FHSAA to grant full access to its records for purposes of OPPAGA's review.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law requiring FHSAA to hold in abeyance certain bylaws; creates a task force.

Section 2. Requires OPPAGA to review recruiting violations.

Section 3. Provides an appropriation.

Section 4. Provides an effective date upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   The bill appropriates $60,000 from the General Revenue Fund to OPPAGA to support the work of the Student Athlete Recruiting Task Force. The sum of $50,000 is appropriated from the General Revenue Fund to OPPAGA to fund its independent review of secondary school recruiting violations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to student athlete recruiting; requiring
3 the Florida High School Athletic Association to hold
4 certain bylaws in abeyance; providing for creation of a
5 task force to review student athlete recruiting issues;
6 providing for task force membership and duties; requiring
7 recommendations to the Governor and the Legislature;
8 requiring the Office of Program Policy Analysis and
9 Government Accountability to conduct a review of
10 recruiting violations by Florida High School Athletic
11 Association member schools; providing appropriations;
12 providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. (1) The Florida High School Athletic
17 Association shall, until July 1, 2007, hold in abeyance the
18 2006-2007 revisions to sections 11.01, 11.02, 11.2, 11.3, and
19 11.4, Bylaws of the Florida High School Athletic Association,
20 relating to student athlete residence and transfer, adopted
21 pursuant to s. 1006.20, Florida Statutes.
22 (2) A Student Athlete Recruiting Task Force shall be
23 created to review issues concerning recruiting of secondary
24 school student athletes. The task force shall make
25 recommendations that preserve the parental right to school
26 choice while protecting the integrity of Florida's
27 interscholastic athletic programs. The task force shall
28 consider:

29 (a) The definition of recruiting.
30 (b) Current and proposed procedures governing recruiting
31 of secondary school student athletes.
32 (c) Documented past recruiting practices and violations.
33 Practices to be reviewed shall include, but not be limited to,
34 the provision of tuition scholarships and other inducements,
35 recruitment of foreign athletes, and active solicitation of
36 student athletes and parents by school employees or boosters.
37 (d) The impact of student athlete recruiting rules on
38 parental school choice.
39 (e) The relationship between student athlete transfers and
40 recruiting, including the role of student athlete transfer rules
41 in preventing recruiting.
42 (f) Measures for preventing improper student athlete
43 recruiting and penalties for recruiting violations.
44 (3) The task force shall be comprised of representatives
45 from home school and public and private secondary school
46 proponents and opponents of the 2006-2007 revisions to the
47 bylaws specified in subsection (1). The task force members shall
48 be appointed as follows:
49 (a) Three proponents of the bylaws and three opponents of
50 the bylaws each appointed by the President of the Senate.
51 (b) Three proponents of the bylaws and three opponents of
52 the bylaws each appointed by the Speaker of the House of
53 Representatives.
54 (c) A task force chair appointed by the Governor.

55 (4) Task force members shall serve without compensation
56 but shall be reimbursed for per diem and travel expenses in
57 accordance with s. 112.061, Florida Statutes.
58 (5) The task force shall be staffed by the Office of
59 Program Policy Analysis and Government Accountability and be
60 monitored by the Department of Education. The chair shall
61 convene meetings of the task force as needed and shall ensure
62 that the recommendations are completed and forwarded on time.
63 (6) The task force shall hold its initial meeting not
64 later than June 1, 2006, and shall submit its recommendations to
65 the Governor, the President of the Senate, and the Speaker of
66 the House of Representatives by January 1, 2007. The task force
67 shall dissolve upon rendering its recommendations.
68 Section 2. The Office of Program Policy Analysis and
69 Government Accountability shall conduct an independent review of
70 secondary school recruiting violations among Florida High School
71 Athletic Association member schools and shall have full access
72 to Florida High School Athletic Association records for the
73 purpose of this review.
74 Section 3. The sum of $60,000 is appropriated from the
75 General Revenue Fund to the Office of Program Policy Analysis
76 and Government Accountability for the 2006-2007 fiscal year to
77 support the work of the Student Athlete Recruiting Task Force.
78 The sum of $50,000 is appropriated from the General Revenue Fund
79 to the Office of Program Policy Analysis and Government
80 Accountability for the 2006-2007 fiscal year to fund its
81 independent review of secondary school recruiting violations.
82 Section 4. This act shall take effect upon becoming a law.

HB 7171

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7171 PCB CI 06-04 Charter Schools
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee	7 Y, 0 N, w/CS	Kooi	Kooi
1) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill sets forth legislative findings regarding the benefits and challenges of the state's charter schools and provides legislative intent to establish a state-level commission to sponsor and support charter schools and to authorize municipalities, state universities, community colleges, and regional consortia as cosponsors of charter schools throughout the state.

The bill establishes the Florida Schools of Excellence Commission whose members are appointed by the State Board of Education through recommendations by the Governor, the President of the Senate, and the Speaker of the House of Representatives, and provides for funding, and an executive director and staff. It further provides a list of powers and duties of the commission, including the power to sponsor charter schools, the power to approve the cosponsors listed above to cosponsor charter schools, and duties relating to support of those approved charter schools and cosponsors.

The bill sets forth timelines, processes and criteria for the review, approval, denial, termination, and non-renewal of cosponsors. It also provides timelines as well as rights and obligations to be included in an agreement negotiated and entered into by the commission and its various individual cosponsors.

The bill incorporates by reference a number of subsections within current charter school law including, but not limited to, provisions relating to receiving, reviewing and approving or denying charter school applications. It also provides for the appellate rights of denied applicants. It further allows existing charter schools previously approved and chartered through a district school board to apply and contract with the commission or one of its cosponsors as long as the charter school is free of further contractual obligations with the district school board.

The bill requires the commission to annually report to the State Board of Education and provides rulemaking authority to the State Board of Education.

The bill will have a significant, but indeterminate fiscal impact. Please see the FISCAL ANALYSIS section of this analysis.

The bill may involve constitutional issues which are discussed in detail in the CONSTITUTIONAL ISSUES section of this analysis.

The bill provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- The bill establishes the Florida Schools of Excellence Commission under the supervision of the State Board of Education (SBE) for the development and support of charter schools. The bill provides the SBE with rulemaking authority and establishes the powers and duties of the commission. The bill would alleviate some of the administrative burden on school districts in relation to their duties to monitor charter schools. The bill increases the SBE's authority to resolve the appeals of denied charter school applicants by the commission, and also creates the authority for the commission to revoke its approval of a cosponsor after providing due process.

Safeguard individual liberty- The bill increases the options of charter school applicants to apply to the commission and cosponsoring entities. Charter school applicants will be able to access new sources of community support and expertise through this commission.

Empower families – The bill will likely lead to more charter schools in more areas and should provide increased educational options for parents and their school-aged children.

B. EFFECT OF PROPOSED CHANGES:

Background

Authorizers

Across the nation, states differ in their administration, implementation, and oversight of charter schools. Charter school authorizers are entities charged with oversight of individual charter schools. According to the Education Commission of the States (ECS) Issue Brief: *A State Policymaker's Guide to Alternative Authorizers of Charter Schools,* during the 2004-05 school year, there were over 800 charter school authorizers across the country, 700 of those being local school boards.[1] Alternative forms of charter school governance have received significant attention in the recent past due to the growing recognition that authorizers are vital components to the success of charter schools. Examples of alternative authorizers include independent special-purpose charter boards, intermediate or regional educational entities, and mayors.

The authorizer's functions include, but are not limited to, continuous monitoring of charter schools so that they are able to deal with issues that arise at an early stage, ensuring academic and financial accountability, offering technical assistance such as workshops or providing referrals, advocating to agencies on behalf of the charter school to reduce school burdens, and garnering community support.[2] According to ECS, during the development of initial state charter school laws, the charter school authorizer's role was overlooked.

Consequently, there is a growing recognition that effective authorizing is essential to the success of charter schools. According to ECS, many states are interested in utilizing entities other than local school boards to authorize charter schools because local school districts are often too constrained with managing, addressing, and correcting the problems of the existing public schools within their district.

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[1] Hassel, Bryan, Todd Ziebarth and Lucy Steiner, *Education Commission of the States (ECS) Issue Brief: A State Policymaker's Guide to Alternative Authorizers of Charter Schools*, Denver, Co: Education Commission of the States, September 2005, p.2.

[2] Presentation by Mark Cannon, Executive Director of National Association of Charter School Authorizers (NASCA), to the Joint Hearing of Florida House Committee on Choice & Innovation and Pre-K-12 Education, February 8, 2005. PowerPoint presentation: *Authorizer Role in Increasing the Number of Quality Charter Schools.*

Local school district resources and personnel are limited; therefore, charter schools may not always receive the oversight and assistance that is needed to operate a successful charter school.

Florida Charter School Law

The Florida Legislature authorized charter schools in 1996. Currently, for the 2005-2006 school year, 92,158 students attend the 333 charter schools in Florida. As provided in section 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under Florida law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application.[3] Additionally, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida are currently authorized to grant charters and sponsor development research (laboratory) schools created under section 1002.32, F.S.[4]

Pursuant to current law, charter schools enter into an agreement (charter) with the local district school board that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Pursuant to section 1002.33(16), F.S., charter schools are free from many state regulations and mandates. However, they are still held accountable to the district sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

Identified Challenges

In spite of the tremendous popularity and growth of the number of charter schools within the state, they are still faced with several challenges that make their efforts to provide innovative and high quality educational options to parents more difficult. The challenges most often cited by charter schools include financial deficits, particularly among new schools, district provision of administrative services, and a lack of communication and support among charter schools and school districts.

The number of charter schools with a financial deficit[5] increased from 18% in 1999-00 to 29% in 2002-03.[6] New charters schools, schools that have been in existence for 1-2 years, have the highest deficit rate among charter schools at approximately 38%, whereas charter schools that have been in existence for 3-4 years and 5-7 years have a deficit rate of 20% and 21%, respectively.[7]

Charter schools face considerable financial difficulties related to start-up and facilities related costs, inaccurate enrollment projections, lack of financial management practices, and lack of economies of scale. These challenges put charter schools at risk for chronic financial deficits. Furthermore, the frequent lack of expertise in education budgeting and finance and lack of familiarity with government accounting conventions can lead to an inability to generate complete, accurate, and timely financial

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[3] Sections 1002.33(5),(6), F.S.

[4] Section 1002.32(2), F.S., provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.

[5] As determined in the Auditor General's Report Number 2005-054, charter schools operating with an end-of-year financial deficit are those charter schools that ended the year with a deficit of unreserved balance in their general fund (for statements using the governmental model) or deficit unrestricted net assets in their unrestricted fund (for statements using the not-for-profit model); Office of Program Policy Analysis and Government Accountability (OPPAGA) Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 8.

[6] Presentation by Jane Fletcher, Staff Director, Education, of OPPAGA, to the Joint Hearing of Florida House Committee on Choice & Innovation and Pre-K-12 Education, February 8, 2005. PowerPoint presentation: *Charter School Review.*

[7] *Id.*

data making the identification and assistance of charter schools with deteriorating financial conditions even more challenging.[8]

Under Florida law, a school district sponsor is required to provide the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services. The school district providing these services is authorized to withhold up to 5% of the charter school's per student funding as payment for the provision of these services.[9] Many charter schools complain that some districts are not providing all of the statutorily required services, and districts often question whether the 5% administrative fee generates an adequate amount of money for school districts to fulfill their responsibilities to charter schools.

Perhaps the biggest challenge facing the success of charter schools today is communication among charter schools and school districts. School district attitudes toward charter schools as well as their provision of services and communication has, in many cases, improved since Florida's first charters were opened approximately ten years ago. Nevertheless, there may always be a certain degree of tension involved in the relationships of school districts and charter schools due to the inherently adversarial nature of such relationships.[10] This tension is problematic given the fact that cooperation between the two parties is often critical in providing a high quality education to charter school children.

Effects of Proposed Changes

Establishment of a state-level charter school commission

The bill sets forth findings related to the contributions made by charter schools throughout the state, specifically, the valuable role charter schools play in providing high quality options to parents and their children, and the importance of charter schools in improving student performance and the quality of all public schools.

It states legislative intent to establish a state-level commission that will place its sole focus on the development and support of charter schools. It indicates legislative intent to seek the support and partnership of entities such as municipalities, universities, community colleges and regional educational consortia as cosponsors of charter schools for the purpose of accessing new sources of community support and expertise.

The bill establishes the Florida Schools of Excellence Commission (commission) under the supervision of the State Board of Education. The bill provides for startup funds to be appropriated by the legislature, but specifically authorizes the commission to seek and utilize funds through private donations as well as public and private grants to assist in the startup.

The bill provides that the commission be composed of seven members appointed by the Governor (3), the President of the Senate (2), and the Speaker of the House of Representatives (2), and requires that such appointments be made by September 1, 2006. The member terms are staggered one and two year terms initially, and then set at two years thereafter. A process for filling vacancies is also provided.

The bill requires monthly meetings of the commission and encourages the commission to schedule its first meeting no later than October 1, 2006. It provides for the appointment of an executive director to employ staff to handle the necessary administrative support for the commission.

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[8] *Id.* at 1.
[9] Section 1002.33(20), F.S.
[10] See Alachua County response to charter school survey conducted by the Florida Association of District School Superintendents

Commission powers and duties

The bill gives the commission the power to review applications and approve and sponsor charter schools. It also provides the commission with the power to terminate or not renew their sponsored charter schools. The requirements and process provided for the commission's review of charter applications is the same as that required of school districts' review of current charter applications as set forth in section 1002.33(6), F.S. The process and causes for termination are as set forth in section 1002.33(8), F.S., which is the current provision for termination and non-renewal of school district sponsored charter schools.

The bill empowers the commission to authorize municipalities, state universities, community colleges, and regional consortia to review, approve, and deny charter school applications. These entities would then act as cosponsors of charter schools. It also provides the commission with authority to terminate or not renew the cosponsors that it approves.

The bill indicates legislative intent to include municipalities, state universities, community colleges, and regional consortia as cosponsors of charter schools for the purpose of accessing the type of community support and resources that such entities have to offer. In setting forth the duties of the commission the bill specifically requires that the commission's cosponsoring relationship with state universities and community colleges allow for dual enrollment and a determination of the feasibility of cooperating with Centers for Autism and Related Disabilities to provide high quality educational options to parents of autistic children.[11]

The bill sets forth numerous duties of the commission aimed at providing greater expertise in approving and developing high quality charter schools, providing responsive academic and budgetary technical support, promoting accountability, seeking private funding, and alleviating administrative burdens of school districts that currently sponsor charter schools. It incorporates the monitoring requirements of section 1002.33(5)(b), F.S., and the administrative services requirements of section 1002.33(20), F.S. for charter schools approved by the commission.[12]

Although the bill provides that cosponsors would be primarily responsible for the provision of administrative services to the charter schools they sponsor, the duties of the commission indicate an intent that the commission act as a partner with its cosponsor in providing technical assistance and access to expertise at a state and national level regarding matters such as Exceptional Student Education services, English for Speakers of Other Languages, and other specialized areas.

Cosponsor applications

The bill requires that the commission begin accepting applications from cosponsors that wish to submit them no later than January 31, 2007. It provides the commission with a 90-day timeline to review and approve or deny the application, though this 90-day requirement may be waived by the applicant. The January 31, 2007 starting date is intended to allow cosponsors to be approved to begin accepting charter school applications on or before September 1, 2007, as set forth in section 1002.33(6)(b), F.S.

The bill requires that the commission limit the number of charter schools that a cosponsor may approve. However, the cosponsor may apply to raise this limit at some point in the future. This will ensure that a cosponsor is able to demonstrate that it has the capacity, expertise, and commitment to

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[11] Known as CARD centers, these entities are operate through several universities throughout the state, are staffed by individuals with superior expertise in dealing with autistic children, and are established under section 1004.55, F.S., to research and provide nonresidential assistance and training to parents in diagnosing, treating and educating their autistic children.

[12] As noted above, these services include: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.

approve, develop and maintain high quality charter schools before allowing the number of its charter schools to increase.

The bill requires that in order to be approved as a cosponsor, the eligible entity must provide evidence in its application that it has, or can contractually provide, the capacity and expertise necessary to provide what is required to sponsor a charter school. It requires a demonstrated commitment to raising and contributing financial resources, providing equal access to all children, maintaining a diverse student population, and focusing on low-income, low performing and underserved children. It requires articulated accountability goals and a policy to prevent conflicts of interest.

The bill states that the commission's decision whether to approve or deny a cosponsor application is not subject to the processes set forth in the Administrative Procedures Act[13], but is instead subject to the same process set out in the current charter school statute for the appeal of charter application denials to the State Board of Education.

Cosponsor agreements

The bill requires that the commission and its cosponsors enter into an agreement which sets forth rights and obligations, many of which are set forth in the application requirements noted above. The agreement must include explanations of how facilities and assets of dissolved charter schools will be handled, and a provision requiring that the cosponsor report student enrollment to the local school district school board for funding purposes. The agreement must also include provisions requiring cosponsors to annually appear before and provide a report to the commission on its charter schools and to assist in providing commission reports to the State Board of Education.

The bill provides for discretion on the part of the commission in defining additional reasonable terms within the agreement that it deems are necessary given the unique characteristics of the particular sponsoring entity. Unique characteristics would be likely to exist in any cosponsor, and is particularly likely with different municipalities. Such characteristics may include the size of the city, the demographics of its student population, or even the demographics of the local school district and how a municipal charter might affect other schools within that school district. This provision would provide the commission with discretion in crafting an agreement that meets the unique needs of the cosponsor while still protecting the welfare and interests of children in the surrounding schools.

The bill prohibits any potential cosponsor from receiving applications prior to officially executing its cosponsor agreement with the commission. It states that the agreement must be proposed and negotiated within six months of approval of the cosponsor application as currently provided in section 1002.33(6)(h), F.S.,[14] and that it shall be attached to and govern any charter school contract entered into by the cosponsor.

Cosponsor revocation

The bill states that the commission may revoke its approval of a cosponsor after providing due process in the form of notice and a hearing as set forth in State Board of Education rule. The approval must be revoked if, after the hearing, the commission finds that the cosponsor is not in compliance, or is not willing to comply with its cosponsor agreement.

The commission is authorized to immediately assume sponsorship of any schools that were sponsored by the revoked cosponsor. The assumption of sponsorship may remain permanent if the commission so desires, or the commission may work with the charter school and the local school district to facilitate application and approval of a charter with the district.

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[13] Ch. 120, F.S.

[14] The bill cross references section 1002.33(6)(i), F.S., due to the fact that Section 2 of the bill renumbers the relevant paragraph.

Charter school applications

The bill states that charter applications that are submitted to the commission or any of its approved cosponsors must contain the same information as required in section 1002.33(6), F.S. It also provides that such applications will be reviewed and approved or rejected in accordance with the terms set forth in current charter school law.[15] It also sets forth timelines by which the applications must be received and reviewed, and provides for an appeal process for application denials, including review by the Charter School Appeal Commission and the State Board of Education.

The bill amends current law regarding application process and review so that in order to exercise the right to appeal a school district's application denial, a charter school must have submitted the same or a substantially similar application to the commission or one of its cosponsors. If the applicant has not yet been denied by the commission or one of its cosponsors it must file the application with one of those entities the following August and if it is denied again, the applicant will then have thirty days to file its appeal of the district's denial. This provision and the existence of multiple authorizers should significantly reduce the number of appeals as well as reducing the likelihood that a district will be forced to sponsor a charter applicant that it has rejected.

The bill allows currently existing charter schools that have been approved and operating under a charter with a school district to apply to and enter into a new contract with the commission or one of its cosponsors. However, the bill clarifies that only charter schools whose contract has expired or whose school district sponsor agrees to rescind a current contract may enter into a new contract with the commission or a cosponsor. Finally, the bill provides that a charter school that switches sponsors must be allowed to continue to utilize the facilities and equipment it has been using under its contract with the school district.

Incorporation of the charter school statute

The bill incorporates by reference, sections 1002.33(7)-(12), (14), and (16)-(19), F.S. Section 1002.33(7), F.S., deals with the numerous items and issues that must be included in a charter contract between charter schools and their sponsors. These include issues relating to mission, curriculum, instructional strategies, student performance expectations, admissions, financial and administrative management, term of the contract, facilities, teacher qualifications, governance structure, renewal, and modification.

Section 1002.33(8), F.S., sets forth the causes by which a charter contract may be revoked or not be renewed. The causes include student performance, fiscal mismanagement, violations of law and other good cause. It also provides for 90-day notice by the sponsor prior to non-renewal or revocation with the opportunity for an informal hearing upon receipt of the notice. There is also a provision for immediate revocation for good cause or to protect the health, safety and welfare of the students. Finally, this incorporated subsection provides for the disposition of remaining debts and assets of the charter school upon termination or non-renewal.

Section 1002.33(9), F.S., provides requirements for charter schools, including accountability, compliance with laws and rules, annual financial audits, and other financial reporting requirements. It also requires the governing board of the charter school to exercise oversight, and report to its sponsor regarding student achievement data, financial status, facilities and personnel issues.

Section 1002.33(10), F.S., addresses the eligibility of students for enrollment at a charter school. It requires that the charter school be open to any child residing in the district and requires that random selection process be implemented if the number of applicants exceed the number of seats available.

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[15] Section 1002.33(6), F.S., provides for the application process and review of charter schools.

This incorporated subsection allows enrollment preference in somewhat limited circumstances and allows a charter school to limit its enrollment to target a certain student population by age, students considered to be dropout risks, charter schools in the workplace or municipality, students within a reasonable distance of the charter school, students who meet certain academic, artistic, or other eligibility standards, and students from a feeder pattern of the charter school.

Section 1002.33(11), F.S., allows charter school students to participate in interscholastic extracurricular activities at the public school to which the student would be otherwise assigned to attend.

Section 1002.33(12), F.S., addresses charter school employees providing that a charter school may select its own employees and that such employees have the option to bargain collectively. It provides options as to the organization of such employees and allows them to take leave from employment with a school district while employed at a charter school without forfeiting seniority and other benefits of school district employment. It further requires that charter school teachers be certified, that charter schools and their employees are governed by the provisions of section 768.28, F.S., relating to sovereign immunity, and that employees of charter schools that are considered public employers may participate in the Florida Retirement System.

Section 1002.33(14), F.S., requires that any arrangement entered into by a charter school to borrow or secure funds must indemnify the state and the school district from liability and clarifies that such debts not obligations of the state or school district.

Section 1002.33(16), F.S., provides exemption for charter schools from numerous statutory requirements in the school code. Statutes relating to student assessment and school grades, the provision of services to student with disabilities, civil rights, and health, safety and welfare, and open meeting and public records continue to apply to charter schools.

Section 1002.33(17), F.S., provides for funding of students in charter schools. It requires that charter schools report student enrollment to their sponsor and sets forth a per student funding formula that includes Florida Education Finance Program funds, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy. It specifies an eligible charter school's entitlement to federal funds for provision of services to eligible students. It requires timely reimbursement and processing of paperwork required to access federal funding by the school district and provides for payment of interest on late reimbursements.

Section 1002.33(18), F.S., sets forth standards for charter school facilities. It specifies that charter schools may choose whether to comply with the Florida Building Code or the State Requirements for Educational Facilities. It requires charter school facilities' compliance with the Florida Fire Prevention Code, exempts them from ad valorem taxes, permit fees, building licenses, impact fees, and service availability fees. It requires that school district surplus property be made available for use by charter schools and allows the designation of impact fees for charter school facilities where the school facility is created to mitigate the impact of development.

Section 1002.33(19), F.S., provides that charter schools are eligible for charter school capital outlay funding pursuant to section 1013.62, F.S.

Charter school information and annual report

The bill requires that the commission be a source of information for parents throughout the state by maintaining information technology to allow parents to make informed educational choices for their children. It also requires the commission to provide an annual report to the State Board of Education regarding the academic performance and fiscal responsibility of all charter schools and cosponsors approved under this new section. Finally, it provides the State Board of Education with rulemaking authority necessary to facilitate the implementation of this new section.

C. SECTION DIRECTORY:

Section 1. Creates section 1002.335, F.S.; establishing the Florida Schools of Excellence Commission as a charter authorizing entity; providing legislative findings and intent; providing startup funds; providing for membership and powers and duties of the Commission; requiring collaboration with identified entities for cosponsoring of charter schools; providing approval requirements of cosponsors; providing components for and revocation of cosponsor agreements; providing for charter application and review procedures; authorizing existing charter schools to apply; providing for application of specified provisions of law; requiring access to information by parents; requiring annual report by Commission; requiring rulemaking.

Section 2. Amends section 1002.33, F.S., providing requirements for right to appeal application denial; revising provisions relating to student funding; revising provisions related to facilities.

Section 3. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not impact state government revenues.

2. Expenditures:

   The bill will require an appropriation for startup funds for the commission and its staff for the 2006-2007 fiscal year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not impact local government revenues.

2. Expenditures:

   The bill would likely impact expenditures of municipalities and community colleges that chose to become cosponsors. The impact is indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would not have a significant impact on the private sector.

D. FISCAL COMMENTS:

The bill would impact school districts to the extent that they would no longer be able to withhold the 5% administrative fee for providing services to charter schools that chose to contract with the commission or one of its cosponsors. However, the costs saved from no longer being responsible to provide those services should balance this reduction in revenue.

The bill establishes funding of a new state entity that will have immediate staffing and location needs. At this time, it is indeterminate what the cost of these needs will be. The staffing needs of the commission are likely to increase as the number of charter schools approved under the authority of the commission and its cosponsors grows.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

2. Other:

Section 4 of Article 9 of the State Constitution states that each county shall constitute a school district and that the district school board "shall operate, control and supervise all free public schools within the school district..." The bill allows an independent board or cosponsors in the form of municipalities, universities, community colleges, and regional consortia to authorize charter schools.

However, Section 2 of Article 9 of the State Constitution provides that the State Board of Education shall "have such supervision of the system of free public education as is provided by law." This provision requires that the State Board of Education must supervise public education in the manner and to the extent provided by the Legislature. Such language also suggests flexibility in the way the Legislature may determine how the State Board must exercise such supervision.

The Legislature has previously exercised this flexibility with the establishment of other public schools that are not under the control of school districts, including charter lab schools established under section 1002.32, F.S., the Florida Virtual School, and the Florida School for the Deaf and Blind. These other examples reflect the Legislature's authority to direct the State Board of Education's supervision of the overall "system of free public education" under Section 2 of Article 9, as opposed to the traditional school district-controlled "free public schools" referenced more specifically in Section 4 of Article 9.

The bill provides for a statewide commission that is supervised and appointed by the State Board of Education. The commission is specifically required to report to the State Board of Education regarding the academic performance and fiscal responsibility of all charter schools approved and maintained by the commission or one of its cosponsors. The commission's rulings regarding revocation or non-renewal of cosponsors and charter schools may be appealed to the State Board of Education.

Furthermore, there is a clear nexus between school districts and municipalities, universities, community colleges, and regional consortia when it comes to the provision of education. For example section 1012.98(5), F.S., provides that school districts may coordinate their professional development programs for teachers with an educational consortium, or with a community college or university. Section 1001.42, F.S., allows districts to participate in educational consortia that are designed to provide joint programs and services to cooperating school districts.

Additionally, section 1013.355, F.S., authorizes the creation of educational facilities benefit districts pursuant to an interlocal agreement between the district school board and a municipality or other eligible local government entity. Section 1002.35, F.S., directs that the New World School of the Arts is assigned to Miami-Dade Community College, the Dade County School District, and one or more universities designated by the State Board of Education.

These are just some of the examples that provide evidence of the relationship that districts share with municipalities, universities, community colleges, and regional consortia with regard to public education throughout the state and should provide support for the proposition that further involvement by such entities would not create a conflict with Article 9 of the Constitution.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the State Board of Education.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The President of the Senate and the Speaker of the House may recommend, but may not determine or dictate who may be appointed to a board or commission that is empowered to act in more than just an advisory capacity. Consequently, the bill will need to be amended to require the recommendation of at least two or more nominees for each of the member positions that are appointed from the President's and the Speaker's recommendations.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Choice and Innovation Committee adopted two amendments and reported the PCB favorably as amended. The amendments did the following:

Amendment 1 - Clarifies that the members of the commission are appointed by the State Board of Education from recommendations provided for each vacancy by the Governor, President of the Senate and the Speaker of the House respectively.

Amendment 2 - Clarifies that current charter schools with district sponsorship may only apply to the new commission or a cosponsor if its contract with the district is expiring or if the district agrees to let them out of the contract. The amendment also clarifies that conversion charter schools may only submit an application to the commission or cosponsor with permission of the school district and gives the district control over disposition of the facilities and equipment assuming such consent is given.

1 A bill to be entitled
2 An act relating to charter schools; creating s. 1002.335,
3 F.S.; providing findings and intent; establishing the
4 Florida Schools of Excellence Commission as a charter
5 school authorizing entity; providing for startup funds;
6 providing for membership of the commission; providing
7 powers and duties of the commission, including serving as
8 a sponsor of charter schools, approving certain entities
9 to act as cosponsors, approving or denying applications
10 for Florida Schools of Excellence (FSE) charter schools,
11 and developing standards for and evaluating the
12 performance of charter schools; requiring collaboration
13 with municipalities, state universities, community
14 colleges, and regional educational consortia as cosponsors
15 for FSE charter schools; providing requirements for
16 approval of cosponsors by the commission; providing
17 components of required cosponsor agreements; providing
18 causes for revocation of approval of a cosponsor;
19 providing for FSE charter school application and review
20 procedures; authorizing existing charter schools to apply
21 as FSE charter schools; providing for application of
22 specified provisions of law; requiring access to
23 information by parents; requiring the commission to submit
24 an annual report; requiring rulemaking; amending s.
25 1002.33, F.S.; providing requirements with respect to the
26 right to appeal a charter school application denial;
27 revising provisions relating to reporting of charter
28 school student enrollment for purposes of funding;

29 revising requirements relating to charter school
30 facilities created to mitigate a certain educational
31 impact; providing an effective date.
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33 Be It Enacted by the Legislature of the State of Florida:
34
35 Section 1. Section 1002.335, Florida Statutes, is created
36 to read:
37 1002.335 Florida Schools of Excellence Commission.--
38 (1) FINDINGS.--The Legislature finds that:
39 (a) Charter schools are a critical component in the
40 state's efforts to provide efficient and high-quality schools
41 within the state's uniform system of public education.
42 (b) Charter schools provide valuable educational options
43 and innovative learning opportunities while expanding the
44 capacity of the state's system of public education and
45 empowering parents with the ability to make choices that best
46 fit the individual needs of their children.
47 (c) The growth of charter schools in the state has
48 contributed to enhanced student performance, greater efficiency,
49 and the improvement of all public schools.
50 (d) The greatest challenges to the continued development
51 and success of uniform, high-quality charter schools are
52 administrative issues, accountability issues, and a lack of
53 sufficient communication and support from sponsors.
54 (2) INTENT.--It is the intent of the Legislature that:
55 (a) There be established an independent, state-level
56 commission whose primary focus is the development and support of

57 charter schools in order to better meet the growing and diverse
58 needs of some of the increasing number and array of charter
59 schools in the state and to further ensure that charter schools
60 of the highest academic quality are approved and supported
61 throughout the state in an efficient manner.
62 (b) New sources of community support in the form of
63 municipalities with knowledge of the unique needs of a
64 particular community or state universities, community colleges,
65 or regional educational consortia with special education
66 expertise should be authorized to participate in developing and
67 supporting charter schools that maximize access to a wide
68 variety of high-quality educational options for all students
69 regardless of disability, race, or socioeconomic status.
70 (3) FLORIDA SCHOOLS OF EXCELLENCE COMMISSION.--
71 (a) The Florida Schools of Excellence Commission is
72 established as an independent, state-level charter school
73 authorizing entity working in collaboration with the Department
74 of Education and under the supervision of the State Board of
75 Education. Startup funds necessary to establish and operate the
76 commission may be received through private contributions and
77 federal and other institutional grants through the Grants and
78 Donations Trust Fund and the Educational Aids Trust Fund housed
79 within the department in addition to funds provided in the
80 General Appropriations Act. The department shall assist in
81 securing federal and other institutional grant funds to
82 establish the commission.
83 (b) The commission shall be appointed by the State Board
84 of Education and shall be composed of three appointees

85 recommended by the Governor, two appointees recommended by the
86 President of the Senate, and two appointees recommended by the
87 Speaker of the House of Representatives. The Governor, the
88 President of the Senate, and the Speaker of the House of
89 Representatives shall each recommend a list of no fewer than two
90 nominees for any appointment to the commission. The appointments
91 shall be made as soon as feasible but no later than September 1,
92 2006. Each member shall serve a term of 2 years; however, for
93 the purpose of providing staggered terms, of the initial
94 appointments, three members shall be appointed to 1-year terms
95 and four members shall be appointed to 2-year terms. Thereafter,
96 each appointee shall serve a 2-year term unless the State Board
97 of Education, after review, extends the appointment. If a
98 vacancy occurs on the commission, it shall be filled by the
99 State Board of Education from a recommendation by the
100 appropriate authority according to the procedure set forth in
101 this paragraph. The members of the commission shall annually
102 vote to appoint a chair and a vice chair.
103 (c) The commission is encouraged to convene its first
104 meeting no later than October 1, 2006, and, thereafter, shall
105 meet each month at the call of the chair or upon the request of
106 four members of the commission. Four members of the commission
107 shall constitute a quorum.
108 (d) The commission shall appoint an executive director who
109 shall employ such staff as is necessary to perform the
110 administrative duties and responsibilities of the commission.

111 (e) The members of the commission shall not be compensated
112 for their services on the commission but may be reimbursed for
113 per diem and travel expenses pursuant to s. 112.061.
114 (4) POWERS AND DUTIES.--
115 (a) The commission shall have the power to:
116 1. Authorize and act as a sponsor of charter schools,
117 including the approval or denial of charter school applications
118 pursuant to subsection (8) and the nonrenewal or termination of
119 charter schools pursuant to s. 1002.33(8).
120 2. Authorize municipalities, state universities, community
121 colleges, and regional educational consortia to act as
122 cosponsors of charter schools, including the approval or denial
123 of cosponsor applications pursuant to State Board of Education
124 rule and subsection (5) and the revocation of approval of
125 cosponsors pursuant to State Board of Education rule and
126 subsection (7).
127 3. Approve or deny Florida Schools of Excellence (FSE)
128 charter school applications and renew or terminate charters of
129 FSE charter schools.
130 (b) The commission shall have the following duties:
131 1. Review charter school applications and assist in the
132 establishment of Florida Schools of Excellence (FSE) charter
133 schools throughout the state. An FSE charter school shall exist
134 as a public school within the state as a component of the
135 delivery of public education within Florida's K-20 education
136 system.
137 2. Develop, promote, and disseminate best practices for
138 charter schools and charter school sponsors in order to ensure

139 that high-quality charter schools are developed and
140 incentivized. At a minimum, the best practices shall encourage
141 the development and replication of academically and financially
142 proven charter school programs.
143 3. Develop, promote, and require high standards of
144 accountability for any school that applies and is granted a
145 charter under this section.
146 4. Monitor and annually review and evaluate the
147 performance of the charter schools it sponsors and hold the
148 schools accountable for their performance.
149 5. Report the student enrollment in each of its sponsored
150 charter schools to the district school board of the county in
151 which the school is located.
152 6. Work with its cosponsors to monitor the financial
153 management of each FSE charter school.
154 7. Direct charter schools and persons seeking to establish
155 charter schools to sources of private funding and support.
156 8. Actively seek, with the assistance of the department,
157 supplemental revenue from federal grant funds, institutional
158 grant funds, and philanthropic organizations. The commission
159 may, through the department's Grants and Donations Trust Fund,
160 receive and expend gifts, grants, and donations of any kind from
161 any public or private entity to carry out the purposes of this
162 section.
163 9. Review and recommend to the Legislature any necessary
164 revisions to statutory requirements regarding the qualification
165 and approval of municipalities, state universities, community

166 colleges, and regional educational consortia as cosponsors for
167 FSE charter schools.
168 10. Review and recommend to the Legislature any necessary
169 revisions to statutory requirements regarding the standards for
170 accountability and criteria for revocation of approval of
171 cosponsors of FSE charter schools.
172 11. Assist its cosponsors and FSE charter schools in
173 cooperating with district school boards to allow the charter
174 schools to utilize unused space within district public schools.
175 12. Collaborate with municipalities, state universities,
176 community colleges, and regional educational consortia as
177 cosponsors for FSE charter schools for the purpose of providing
178 the highest level of public education to low-income, low-
179 performing, and underserved student populations. Such
180 collaborations shall:
181 a. Allow state universities and community colleges that
182 cosponsor FSE charter schools to enable students attending a
183 charter school to take college courses and receive high school
184 and college credit for such courses.
185 b. Be used to determine the feasibility of opening charter
186 schools for children with autism that work with and utilize the
187 specialized expertise of the Centers for Autism and Related
188 Disabilities established and operated pursuant to s. 1004.55.
189 13. Support municipalities when the mayor or chief
190 executive, through resolution passed by the governing body of
191 the municipality, expresses an intent to cosponsor and establish
192 charter schools within the municipal boundaries.

193 14. Meet the needs of charter schools and school districts
194 by uniformly administering high-quality charter schools, thereby
195 removing administrative burdens from the school districts.
196 15. Work with school districts to assist them in
197 effectively providing administrative services to their charter
198 schools.
199 16. Perform all of the duties of sponsors set forth in s.
200 1002.33(5)(b) and (20).
201 (5) APPROVAL OF COSPONSORS.--
202 (a) The commission shall begin accepting applications by
203 municipalities, state universities, community colleges, and
204 regional educational consortia no later than January 31, 2007.
205 The commission shall have 90 days from receipt of an application
206 under this paragraph to approve or deny the application unless
207 the 90-day period is waived by the applicant.
208 (b) The commission shall limit the number of charter
209 schools that a cosponsor may approve pursuant to its review of
210 the cosponsor's application under paragraph (c). Upon
211 application by the cosponsor and review by the commission of the
212 performance of a cosponsor's current charter schools, the
213 commission may approve a cosponsor's application to raise the
214 limit previously set by the commission.
215 (c) Any entity set forth in paragraph (a) that is
216 interested in becoming a cosponsor pursuant to this section
217 shall prepare and submit an application to the commission that
218 provides evidence that the entity:
219 1. Has the necessary staff and infrastructure or has
220 established the necessary contractual or interagency

221 relationships to ensure its ability to handle all of the
222 administrative responsibilities required of a charter school
223 sponsor as set forth in s. 1002.33(20).
224 2. Has the necessary staff expertise and infrastructure or
225 has established the necessary contractual or interagency
226 relationships to ensure that it will approve and is able to
227 develop and maintain charter schools of the highest academic
228 quality.
229 3. Has and is committed to providing and pursuing the
230 necessary public and private financial resources and staff to
231 ensure that it can monitor and support charter schools that are
232 economically efficient and fiscally sound.
233 4. Is committed to providing equal access to all students
234 and to maintaining a diverse student population within its
235 charter schools.
236 5. Is committed to focusing on low-income, low-performing,
237 and underserved student populations.
238 6. Has articulated annual goals and expected outcomes for
239 its charter schools as well as the methods and plans by which it
240 will achieve those goals and outcomes.
241 7. Has policies in place to protect its cosponsoring
242 practices from conflicts of interest.
243 (d) The commission's decision to deny an application or to
244 revoke approval of a cosponsor pursuant to subsection (7) is not
245 subject to chapter 120 and may be appealed to the State Board of
246 Education pursuant to s. 1002.33(6).
247 (6) COSPONSOR AGREEMENT.--

248 (a) Upon approval of a cosponsor, the commission and the
249 cosponsor shall enter into an agreement that defines the
250 cosponsor's rights and obligations and includes the following:
251 1. An explanation of the personnel, contractual and
252 interagency relationships, and potential revenue sources
253 referenced in the application as required in paragraph (5)(c).
254 2. Incorporation of the requirements of equal access for
255 all students, including any plans to provide transportation
256 reasonably necessary to provide access to as many students as
257 possible.
258 3. Incorporation of the requirement to focus on low-
259 income, low-performing, and underserved student populations.
260 4. An explanation of the goals and expected outcomes for
261 the cosponsor's charter schools and the method and plans by
262 which they will be achieved as referenced in the application.
263 5. The conflict-of-interest policies referenced in the
264 application.
265 6. An explanation of the disposition of facilities and
266 assets upon termination and dissolution of a charter school
267 approved by the cosponsor.
268 7. A provision requiring the cosponsor to annually appear
269 before the commission and provide a report as to the information
270 provided pursuant to s. 1002.33(9)(l) for each of its charter
271 schools.
272 8. A provision requiring that the cosponsor report the
273 student enrollment in each of its sponsored charter schools to
274 the district school board of the county in which the school is
275 located.

276 9. A provision requiring that the cosponsor work with the
277 commission to provide the necessary reports to the State Board
278 of Education.
279 10. Any other reasonable terms deemed appropriate by the
280 commission given the unique characteristics of the cosponsor.
281 (b) No cosponsor may receive applications for charter
282 schools until a cosponsor agreement with the commission has been
283 approved and signed by the commission and the appropriate
284 individuals or governing bodies of the cosponsor.
285 (c) The cosponsor agreement shall be proposed and
286 negotiated pursuant to the timeframes set forth in s.
287 1002.33(6)(i).
288 (d) The cosponsor agreement shall be attached to and shall
289 govern all charter school contracts entered into by the
290 cosponsor.
291 (7) CAUSES FOR REVOCATION OF APPROVAL OF A COSPONSOR.--If
292 at any time the commission finds that a cosponsor is not in
293 compliance, or is no longer willing to comply, with its contract
294 with a charter school or with its cosponsor agreement with the
295 commission, the commission shall provide notice and a hearing in
296 accordance with State Board of Education rule. If after a
297 hearing the commission confirms its initial finding, the
298 commission shall revoke the cosponsor's approval. The commission
299 may assume sponsorship over any charter school sponsored by the
300 cosponsor at the time of revocation. Thereafter, the commission
301 may assume permanent sponsorship over such school or may direct
302 the school's governing body to apply to another cosponsor or to
303 the appropriate district school board for sponsorship.

304 (8) CHARTER SCHOOL APPLICATION AND REVIEW.--Charter school
305 applications submitted to the commission or to a cosponsor
306 approved by the commission pursuant to subsection (5) shall be
307 subject to the same requirements set forth in s. 1002.33(6). The
308 commission or cosponsor shall receive and review all
309 applications for FSE charter schools according to the provisions
310 of s. 1002.33(6)(b). All references to a district school board
311 in s. 1002.33(6)(b) shall refer to the commission or its
312 cosponsors that receive applications for review.
313 (9) APPLICATIONS OF EXISTING CHARTER SCHOOLS.--
314 (a) An application may be submitted pursuant to this
315 section by an existing charter school approved by a district
316 school board provided that the obligations of its charter
317 contract with the district school board will expire prior to
318 entering into a new charter contract with the commission or one
319 of its cosponsors. A district school board may agree to rescind
320 or waive the obligations of a current charter contract to allow
321 an application to be submitted by an existing charter school
322 pursuant to this section. A charter school that changes sponsors
323 pursuant to this subsection shall be allowed to continue the use
324 of all facilities, equipment, and other assets it owned or
325 leased prior to the expiration or rescission of its contract
326 with a district school board sponsor.
327 (b) An application to the commission or one of its
328 cosponsors by a conversion charter school may only be submitted
329 upon consent of the district school board. In such instance, the
330 district school board may retain the facilities, equipment, and
331 other assets of the conversion charter school for its own use or

332 agree to reasonable terms for their continued use by the
333 conversion charter school.
334 (10) APPLICATION OF CHARTER SCHOOL STATUTE.--The
335 provisions of s. 1002.33(7)-(12), (14), and (16)-(19) shall
336 apply to the commission, cosponsors, and charter schools
337 approved pursuant to this section.
338 (11) ACCESS TO INFORMATION.--The commission shall provide
339 maximum access to information to all parents in the state. It
340 shall maintain information systems, including, but not limited
341 to, a user-friendly Internet website, that will provide
342 information and data necessary for parents to make informed
343 decisions. At a minimum, the commission must provide parents
344 with information on its accountability standards, links to
345 schools of excellence throughout the state, and public education
346 programs available in the state.
347 (12) ANNUAL REPORT.--Each year, the chair of the
348 commission shall appear before the State Board of Education and
349 submit a report regarding the academic performance and fiscal
350 responsibility of all charter schools and cosponsors approved
351 under this section.
352 (13) IMPLEMENTATION.--The State Board of Education shall
353 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to
354 facilitate the implementation of this section.
355 Section 2. Paragraphs (d), (e), (f), (g), and (h) of
356 subsection (6) of section 1002.33, Florida Statutes, are
357 redesignated as paragraphs (e), (f), (g), (h), and (i),
358 respectively, a new paragraph (d) is added to that subsection,

359 and paragraph (a) of subsection (17) and paragraph (f) of
360 subsection (18) of that section are amended, to read:
361 1002.33 Charter schools.--
362 (6) APPLICATION PROCESS AND REVIEW.--Beginning September
363 1, 2003, applications are subject to the following requirements:
364 (d) The right to appeal an application denial under
365 paragraph (c) shall be contingent on the applicant having
366 submitted the same or a substantially similar application to the
367 Florida Schools of Excellence Commission or one of its
368 cosponsors. Any such applicant whose application is denied by
369 the commission or one of its cosponsors subsequent to its denial
370 by the district school board may exercise its right to appeal
371 the district school board's denial under paragraph (c) within 30
372 days after receipt of the commission's or cosponsor's denial or
373 failure to act on the application. However, the applicant
374 forfeits its right to appeal under paragraph (c) if it fails to
375 submit its application to the commission or one of its
376 cosponsors by August 1 of the school year immediately following
377 the district school board's denial of the application.
378 (17) FUNDING.--Students enrolled in a charter school,
379 regardless of the sponsorship, shall be funded as if they are in
380 a basic program or a special program, the same as students
381 enrolled in other public schools in the school district. Funding
382 for a charter lab school shall be as provided in s. 1002.32.
383 (a) Each charter school shall report its student
384 enrollment to the sponsor ~~district school board~~ as required in
385 s. 1011.62, and in accordance with the definitions in s.
386 1011.61. The sponsor ~~district school board~~ shall include each

387 charter school's enrollment in the district's report of student
388 enrollment. All charter schools submitting student record
389 information required by the Department of Education shall comply
390 with the Department of Education's guidelines for electronic
391 data formats for such data, and all districts shall accept
392 electronic data that complies with the Department of Education's
393 electronic format.
394 (18) FACILITIES.--
395 (f) To the extent that charter school facilities are
396 specifically created to mitigate the educational impact created
397 by the development of new residential dwelling units, pursuant
398 to subparagraph (2)(c)4., some of or all of the educational
399 impact fees required to be paid in connection with the new
400 residential dwelling units may be designated instead for the
401 construction of the charter school facilities that will mitigate
402 the student station impact. Such facilities shall be built to
403 the State Requirements for Educational Facilities and shall be
404 owned by a public or nonprofit entity. The sponsor ~~local school~~
405 ~~district~~ retains the right to monitor and inspect such
406 facilities to ensure compliance with the State Requirements for
407 Educational Facilities. If a facility ceases to be used for
408 public educational purposes, either the facility shall revert to
409 the sponsor ~~school district~~ subject to any debt owed on the
410 facility, or the owner of the facility shall have the option to
411 refund all educational impact fees utilized for the facility to
412 the sponsor ~~school district~~. The district and the owner of the
413 facility may contractually agree to another arrangement for the
414 facilities if the facilities cease to be used for educational

415 purposes. The owner of property planned or approved for new
416 residential dwelling units and the entity levying educational
417 impact fees shall enter into an agreement that designates the
418 educational impact fees that will be allocated for the charter
419 school student stations and that ensures the timely construction
420 of the charter school student stations concurrent with the
421 expected occupancy of the residential units. The application for
422 use of educational impact fees shall include an approved charter
423 school application. To assist the school district in forecasting
424 student station needs, the entity levying the impact fees shall
425 notify the affected district of any agreements it has approved
426 for the purpose of mitigating student station impact from the
427 new residential dwelling units.
428 Section 3. This act shall take effect July 1, 2006.