

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 93

Relating to: EDUCATION, School Districts; School Boards; Charter Districts

Introducer(s): Commissioner Martinez

Article/Section affected: Article IX, section 4

Date: January 30, 2018

	REFERENCE	ACTION
1.	<u>ED</u>	<u>Pre-meeting</u>
2.	<u>LO</u>	<u>Pre-meeting</u>

I. SUMMARY:

The proposal amends Section 4, Article IX of the Florida Constitution to authorize high-performing school districts to become charter districts. As outlined in the proposal, a charter district remains under the governance of the school board, but the charter district is exempt from all provisions of the Florida K-20 Education Code in the same manner, and is subject to the same exemptions, as a charter school designated by Florida law.

To qualify, a school district must receive a grade of “B” or better for the last three years and not have had financial resources fall below the state required minimum.

To maintain its status as high performing after the initial designation, a school district must maintain a grade of “B” or better for at least two years within a three year period; not fall below a “C” grade and its financial reserves must not fall below the state required minimum.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

As defined by the proposal, charter districts are not currently permitted by the Florida Constitution or in Florida Statutes. However, there are some similarly titled programs in current law and in state history. For example, Jefferson County School District is currently referred to as a charter district because all of its schools are being operated by a charter school management company. In some federal reporting, charter schools are separated from district schools for certain purposes and referred to as charter districts.

Additionally, there are some university development research schools that are charter schools and their own school district. These similarly titled programs should not be confused with the charter district concept in this proposal.

History of Charter Districts

The concept of charter districts is not new in Florida. In 1999, the state had a similar program called the Charter School Districts Pilot Program, which allowed the State Board of Education (SBE) to enter into a performance contract with up to six school districts for the purpose of establishing them as charter school districts, with priority given to Hillsborough and Volusia Counties.¹ The charter proposal exchanged statutory and rule exemption for agreement to meet certain performance goals in the proposal. Charter school districts were exempt from state statutes and state board rules as provided by statute.²

After the K-20 Education Code was rewritten in 2002, the program continued as Academic performance-based charter school districts,³ which again allowed the SBE to enter into a performance contract with school districts that satisfied eligibility criteria (high performing with a minimum of 50 percent of the schools earning “A” or “B” and no school earning a “D” or “F” for two consecutive years). The Academic performance based charter school districts program is no longer found in statute after 2009. Those districts that were part of the Pilot Program were grandfathered in and evaluated under the criteria approved in the initial charter applications. The Pilot Program was limited to Volusia, Hillsborough, Orange, and Palm Beach Counties, with a termination date of July 1, 2010.⁴

Current Charter Exemptions

In statute, charter schools are exempt from certain statutes⁵ found in the educational code with the exception of the following statutes:

1. Statutes specifically applying to charter schools
2. Statutes applying to student assessment and school grades
3. Statutes pertaining to services to students with disabilities
4. Statutes pertaining to civil rights, including s. 1000.05, F.S.
5. Statutes pertaining to student health, safety and welfare

In addition, charter schools must comply with the following requirements in statutes:

1. Section 286.011, relating to public meetings and public records
2. Chapter 119, relating to public records
3. Section 1003.03, relating to class size

¹ Section 228.058, F.S. (2000)

² Section 228.056, F.S. (2000)

³ Section 1003.62, F.S.

⁴ Section 1003.62, F.S. (2010)

⁵ Section 1002.33(16), F.S.

4. Section 1012.22(1)(c) relating to compensation and salary schedules
5. Section 1012.33(5) relating to workforce reductions
6. Section 1012.335, relating to contracts with instructional personnel hired on or after July 1, 2011
7. Section 1012.34, relating to performance evaluations.

School District Financial Reserves

Section 1011.051, F.S., addresses the required school district financial reserves. If at any time the portion of the district's general fund's ending balance not classified as restricted, committed, or non-spendable in the approved operating budget is projected to fall below 3 percent of the projected general fund revenues, the superintendent is required to provide notice to the district school board and the commissioner of education. When that portion of the projected ending balance falls below 2 percent, the commissioner must appoint a financial emergency board if the district does not have a plan to avoid a financial emergency. It is presumed that the reference in the proposal regarding the district's financial reserves refers to this provision of the statute.

Current Education Autonomy Programs

This proposal is similar to the academically high-performing school districts program, in statute since 2007,⁶ which allows school districts that are academically high performing (grade of "A" for two consecutive years, no school with an "F," complies with class size requirements, and has no material weaknesses or instances of noncompliance in the annual financial audit) to be exempt from the provisions in chs. 1000-1013, F.S., pertaining to school districts, and SBE rules that implement those provisions, with certain exceptions. Seven districts are currently designated, but none are exercising any exemptions. No exemptions have been exercised other than school start date since 2012-13. Since school start date was moved to August 10 in 2015,⁷ no exemptions have been exercised.

Currently there is also the Principal Autonomy Pilot Program Initiative (PAPPI), in statute since 2016,⁸ which allows principals of participating schools in participating school districts with increased autonomy regarding allocation of resources and staffing. School boards potentially eligible for participation in PAPPI (seven listed in statute) are exempt from the K-20 Education Code and State Board of Education rules, with exceptions. Broward, Palm Beach, Pinellas are the only districts participating (three schools each in a three-year pilot).

The Schools of Excellence program was created in statute in 2017⁹ to provide specified administrative flexibilities for high-performing schools. Eligible schools must receive a

⁶ Section 1003.621, F.S.

⁷ Section 1003.621, F.S.

⁸ Section 1011.6202, F.S.

⁹ Section 1003.631, F.S.

grade of “A” or “B” in each of the most recent three school years and rank at the 80th percentile or higher for their school type for at least two of the last three years. There are 643 schools in 47 districts: 347 elementary, 116 middle, 96 high and 84 combination schools.

The District Innovation Schools of Technology program was created in statute in 2013,¹⁰ but no district has ever applied. These schools would be exempt from the provisions in chs. 1000-1013, F.S., pertaining to school districts, and SBE rules that implement those provisions, with certain exceptions.

B. EFFECT OF PROPOSED CHANGES:

This proposal allows any high-performing school district to choose, by resolution of a majority of the school board or a vote of the electors of the county, to become a charter district. The district would then be exempt from the K-20 Education Code in the same manner, and be subject to the same exemptions, as a charter school designated by Florida law. After the school district’s initial designation as a charter district, the district must maintain its status as a high-performing school district so long as the district maintains a performance grade of “B” or better for at least two years within a three-year period, the district does not fall below a performance grade of “C,” and the district’s financial reserves do not fall below the state-required minimum.

An estimated thirty-eight districts meet district grade requirements in proposal.

Current statute outlines exemption programs for schools and districts. Tying a semi-permanent constitutional provision to a mutable statute is problematic. The exemptions for charters are found in statute and can be changed with each legislative session. Therefore, while voters would have notice that a charter district would have the same exemptions as a charter school, the extent and nature of the exemptions are subject to change.

C. FISCAL IMPACT:

The fiscal impact is indeterminate because it would be contingent upon the choice of districts to identify as a charter district and upon the flexibilities chose to be implemented. There may be risk the diversion of resources for a district were it to qualify as a charter districts in one three year period and not the next, could have a negative impact on the district’s educational system.

¹⁰ Section 1002.451, F.S.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.