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This issue of Boarder-Line provides detailed summaries of three key education related bills that were considered recently in the Legislative Session. These bills are [HB 7083](#) / [SB 1528](#) relating to Charter Schools, [HB 7099](#) / [SB 1620](#) relating to the Tax Credit Scholarship Program, and [HB 5103](#) / [SB 1512](#) relating to Students with Disabilities.

HB 7083 Charter Schools by Choice & Innovation ([SB 1528](#) by Bradley)

[NOTE: These two bills are similar, but not identical. This summary focuses on HB 7083]

The bill revises the required elements of the application and charter by transferring several issues currently required to be addressed in charter negotiations to the application process. Charter elements transferred to the application include:

- The students to be served, including ages and grade levels.
- The curriculum's focus and instructional methods to be used.
- The method for determining the strengths and needs of students and whether they are meeting educational goals.
- In secondary charter schools, a method for determining whether students have met high school graduation requirements.
- Admission and dismissal procedures and the school's student conduct code.
- Methods for achieving a racial/ethnic balance reflective of the community served.
- The financial and administrative management of the school, including experience required for management positions and a description of internal audit controls.
- A description of plans to identify various risks, reduce losses, and ensure student and faculty safety.
- Teacher qualifications, governance structure, and timetables for implementing each element of the charter.

The bill authorizes a sponsor to request additional information from the applicant, which must be incorporated into the application as an addendum. The bill also revises current law regarding the opportunity for an applicant to correct and resubmit the application to provide that the opportunity must be allowed for any issue the sponsor indicates as cause to deny the application.

The bill requires the state board to adopt the standard charter and charter renewal contracts in rule and, thereafter, charter school applicants and sponsors will be required to use these documents. The standard charter will consist of the approved application, any addenda, and the remaining required elements of the charter. Terms that are inconsistent with or prohibited by law are void and unenforceable. Issues decided upon by the sponsor during the application phase are deemed to be settled prior to charter negotiations but the applicant and sponsor may negotiate additional terms after finalizing the standard charter. The charter school may open and operate during the pendency of such negotiations.

The bill clarifies that mandatory termination occurs automatically upon a charter school's receipt of a second consecutive grade of "F" becoming final, unless an exception applies. The sponsor

must notify in writing the charter school's governing board, the charter school principal, and DOE. Hearings and appeals applicable to discretionary and immediate charter terminations are not applicable to mandatory terminations. The law specifies procedures for winding-down the operations of a terminated charter school, such as reverting unencumbered public funds to the sponsor and reassigning students to other district schools. The bill specifies that these procedures apply to mandatory terminations. The bill also provides that a virtual instruction provider's contract must be terminated if the provider earns two consecutive school grades of "F" or school improvement ratings of "Declining."

The bill clarifies that if a district school board facility or property that has previously been used as a school but is no longer used as a school, it must be made available for a charter school's use. The charter school is responsible for costs required to bring the facility into compliance with the Florida Building Code and for costs required to maintain such compliance. The charter school may not earn capital outlay funds. The school district must include the charter school's capital outlay full-time equivalent student count in the district's capital outlay calculations. The charter school may choose to maintain the facility to the same standard as any other district-operated school of similar age and condition.

The bill replaces current limitations on the number and frequency of high-performing charter school replication to provide that a high-performing charter school may replicate an unlimited number of times in a given year, provided that replicated schools are established for the purpose of serving an attendance area served by a traditional public school identified as in need of intervention and support or to meet capacity needs or needs for innovative choice options identified by school districts. The bill also clarifies that a sponsor may not require a high-performing charter school to limit enrollment or capacity to students enrolled before the start of the school year as a condition of approval or renewal of a charter. In addition, the bill authorizes an out-of-state entity that successfully operates a system of high-quality charter schools elsewhere in the United States to apply to the state board for high-performing charter school system status. If awarded the status, charter schools that the entity establishes in Florida are automatically deemed "high-performing" for the first three years of operation. The state board must adopt rules specifying a process and criteria for evaluating out-of-state entities for "high-performing status." Eligibility criteria established by the state board must be aligned to the priorities of the federal Charter Schools Program Grants for Replication and Expansion of High-Quality Charter Schools.

Finally, the bill requires that, for purposes of determining eligibility for capital outlay funding, a charter school have no financial emergency conditions on its annual financial audit for the most recent fiscal for which an audit is available.

[HB 7099](#) – Tax Credit Scholarship Program by Finance & Tax ([SB 1620](#) by Galvano)

[NOTE: These two bills are similar, but not identical. This summary focuses on HB 7099]

The bill amends student eligibility for the program by providing that, beginning in FY 2014-2015, the prior public school attendance requirement for students whose household income is below 185% of the federal poverty level is removed. Beginning in FY 2016-2017, the maximum household income for eligibility is increased to 260% of the federal poverty level. Students with household incomes between 185% and 260% of the federal poverty level are required to have spent the prior school year in public school unless they are entering kindergarten or first grade. The bill adds eligibility for students placed in out-of-home care that is not foster care. The bill requires SFOs to give priority among new applicants to those students with household incomes below 185% of the federal poverty level and to students in foster or out-of-home care. Students who received a scholarship in the prior year will continue to receive priority over any new applicants. In addition, in order to comply with the expanded household income requirements, parents of students who wish to participate must authorize the SFO to access information held by other state or federal agencies necessary for verification of income.

The bill increases the maximum scholarship limit from 80 percent to 84 percent of the unweighted FEFP funding amount. In concert with the FY 2016-2017 increase in maximum household income for eligibility, the bill creates a new tiered phasedown of the maximum per-student scholarship amount. For household incomes between 200% and 215% of the federal poverty line, the maximum is reduced by 12%. For household incomes between 215% and 230%, the maximum is reduced by 26%. For household incomes between 230% and 245%, the maximum is reduced by 40%. Finally, for household incomes between 245% and the newly increased maximum of 260% the amount is reduced by 50%.

The bill creates a new application process for organizations that wish to become SFOs. In order to participate, organizations must submit an application for initial approval or renewal to DOE's Office of Independent Education and Parental Choice by September 1 of the year prior to the year in which that SFO intends to begin offering scholarship funding. After consultation with the DOR and Chief Financial Officer, the Commissioner of Education provides a recommendation for each application to the State Board of Education, which will have final approval or disapproval responsibility. The application is required to include a copy of a SFO's incorporation documents and organizational chart, a description of the organization's financial plan and intended area of operation, and descriptions of the organization's intended operational procedure. Each SFO is also required to include with its initial application a copy of a surety bond or letter of credit for the amount equal to 25% of anticipated donations. SFOs already approved as of July 1, 2014, will have until August 1, 2014, to provide a copy of a surety bond or letter of credit. This bond or letter of credit will be adjusted on an annual basis thereafter to equal the amount of undispersed donations based on annual audits reviewed by DOE. Applications for renewal by an SFO that operated the prior year must also include the organization's IRS Form 990, an annual audit, and an annual report regarding donations, administrative expenditures, scholarship applications, and scholarship recipients. Any funds held by a SFO whose application for renewal is denied shall revert to DOR for redistribution to eligible SFOs. The allowable uses of the administrative allowance are expanded to include professional development to support participating schools. The bill strengthens the background check requirements for owners and operators of SFOs by adding a number of additional disqualifying offenses.

The bill creates a new section of statute establishing the Sales Tax Credit Scholarship Program, which allows sales tax dealers to receive credit against their sales and use tax liability under ch. 212, F.S., for donations made to SFOs participating in the new program. The Sales Tax Credit Scholarship Program will operate separately from the existing FTC Program; however, many of the administrative requirements for both programs are the same. The bill also establishes a unified tax credit cap for the new Sales Tax Credit Scholarship Program and FTC Program. DOR may approve tax credits under either program until the sum of such approvals under both programs combined reaches the limits specified in the bill. The cap is set at \$390 million in fiscal year 2014-2015 (\$32.2 million above the cap level expected to apply under current law). In subsequent years, the cap can increase sequentially to \$475 million, \$590 million, \$730 million, and \$873.6 million. The amount of credits approved each year will be required to reach 90% of the new combined cap in each year to trigger an increase in the subsequent year.

Additionally, taxpayers and dealers will be able to transfer tax credits received under both tax credit scholarship programs so long as the transfer is between members of an affiliated group of corporations. The transferred tax credit must be applied against the same tax as it was to be applied against prior to the transfer. Taxpayers and dealers must notify the DOR (who in turn notifies the Division of Alcoholic Beverages and Tobacco for credits against excise taxes on alcoholic beverages) of their intent to transfer a credit, and the credit is not available until DOR approves the transfer.

HB 5103 – Students with Disabilities by Choice & Innovation ([SB 1512](#) by Stargel)

[NOTE: These two bills are similar, but not identical. This summary focuses on HB 5103]

The bill establishes the Florida Personal Learning Account (account) program to enable parents of students with disabilities to customize their child's education using a wide range of instructional services. The parent of a student who resides in this state may request and receive an account if the student is:

- Eligible to enter kindergarten to grade 5 or received an account in the previous school year;
- Identified as having autism, cerebral palsy, down syndrome, an intellectual disability, Prader-Willi syndrome, or Spina bifida, or for a student in kindergarten, as a high-risk child, by the school district in which he or she resides, and the district has completed an IEP written in accordance with rules of the state board; and
- Assigned to FEFP matrix support levels IV or V.

At least 60 calendar days prior to one of the payment transfer dates, parents must apply for an account to an eligible SFO. If the student does not already have a qualifying IEP, the parent must request that the school district in which he or she resides evaluate the student and prepare an IEP, which must be completed within 30 calendar days. Upon completion of the IEP, the school district must provide the parent with an estimate of the amount of funds the student may receive in the account. Once a student is determined to be eligible for an account, the SFO establishes an account for the student. The parent must register the student's participation in an account with the school district, which participation satisfies regular school attendance requirements. School districts are not responsible for providing a FAPE to a student who receives an account, unless the student enrolls in public school. Students receiving an account are treated as a unilateral parent placement for purposes of state and federal law, excluding preparation of the IEP.

Parents first procure allowable services for the student and then must apply for reimbursement of expenses. Expenditures are reimbursed only after the SFO verifies the expenditure was made in compliance with the program. Funds from the account may be used for:

- Specialized instructional services.
- Tuition and fees for instructional services from a private school that is eligible to participate in the McKay Program or FTC Program.
- Private tutoring.
- Curriculum.
- Tuition and fees for virtual instruction⁵² or DOE-approved online courses.
- Costs for annual home education evaluation.
- The \$25 scholarship application fee.
- Services such as applied behavior analysis, speech-language pathology, occupational therapy, or physical therapy.

In order to receive reimbursement for specialized instructional services or private school educational services, such services must be consistent with the student's IEP. Specialized instructional service providers must be approved by DOE, be providing services through the Agency for Persons with Disabilities, or be authorized to provide services to students with disabilities enrolled in the Voluntary Prekindergarten Education program. A private school must be participating in the McKay Program or FTC Program.

Account funding is calculated using the same calculation as the McKay Program. In order to enable DOE to calculate funding for a student's account, the student's school district of residence must report him or her for FEFP funding. Students receiving an account must be reported separately from students attending district public schools, but are included in the districts' FEFP allocation. DOE must transfer the funding quarterly to an SFO. The SFO must maintain separate accounts for each

eligible student, verify qualifying expenditures, and reimburse the parent for eligible services provided to the student. When requesting reimbursement for services, the parent must submit receipts or other relevant supporting documentation and an affidavit stating compliance with expenditure requirements. Any unused funds are rolled over to the next fiscal year, unless the student returns to public school, is determined ineligible for the program based upon reevaluation of the IEP or an annual evaluation of educational progress, graduates from high school, or attains age 22, whichever occurs first. If an account is terminated, remaining funds revert to the state.

The SFO must verify that expenditures are permissible before reimbursing parents for services. Participating SFOs must submit quarterly reports to DOE regarding students served, services reimbursed, and providers used. SFOs must provide the Auditor General and DOE with an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant. DOE must approve instructional services providers, monitor program compliance, and establish a complaint process and adjudicate complaints.

The bill requires participating students to undergo an annual educational evaluation that is similar to that required for home education students. Parents must participate in annual IEP reviews and may not receive any rebate or refund from service providers. The state is not liable for any claim arising from the award or use of an account.