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CS/CS/HB 1259, Engrossed 1

2023 Legislature

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An act relating to education; amending s. 212.055, F.S.; conforming provisions to changes made by the act; amending s. 1013.62, F.S.; deleting obsolete language; making technical changes; revising charter school eligibility and ineligibility criteria to receive capital outlay funds; revising the calculation methodologies for the distribution of specified funds to eligible charter schools; providing school district requirements for the distribution of capital outlay funds to eligible charter schools; providing requirements for the use of capital outlay funds; providing an effective date.

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

Section 1. Paragraph (c) of subsection (6) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the

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26 maximum length of time the surtax may be imposed, if any; the
 27 procedure which must be followed to secure voter approval, if
 28 required; the purpose for which the proceeds may be expended;
 29 and such other requirements as the Legislature may provide.
 30 Taxable transactions and administrative procedures shall be as
 31 provided in s. 212.054.

32 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

33 (c) The resolution providing for the imposition of the
 34 surtax must set forth a plan for use of the surtax proceeds for
 35 fixed capital expenditures or fixed capital costs associated
 36 with the construction, reconstruction, or improvement of school
 37 facilities and campuses which have a useful life expectancy of 5
 38 or more years, and any land acquisition, land improvement,
 39 design, and engineering costs related thereto, or any purchase,
 40 lease-purchase, lease, or maintenance of school buses, as
 41 defined in s. 1006.25, which have a life expectancy of 5 years
 42 or more. Additionally, the plan shall include the costs of
 43 retrofitting and providing for technology implementation,
 44 including hardware and software, for the various sites within
 45 the school district. Surtax revenues may be used to service bond
 46 indebtedness to finance projects authorized by this subsection,
 47 and any interest accrued thereto may be held in trust to finance
 48 such projects. Neither the proceeds of the surtax nor any
 49 interest accrued thereto shall be used for operational expenses.
 50 Surtax revenues shared with charter schools shall be shared

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51 based on their proportionate share of total school district
52 capital outlay full-time equivalent enrollment as adopted by the
53 education estimating conference established in s. 216.136 and
54 expended by the charter school in a manner consistent with the
55 allowable uses set forth in s. 1013.62(4). All revenues and
56 expenditures shall be accounted for in a charter school's
57 monthly or quarterly financial statement pursuant to s.
58 1002.33(9). The eligibility of a charter school to receive funds
59 under this subsection shall be determined in accordance with s.
60 1013.62(1). If a school's charter is not renewed or is
61 terminated and the school is dissolved under the provisions of
62 law under which the school was organized, any unencumbered funds
63 received under this subsection shall revert to the sponsor.

64 Section 2. Subsections (1), (2), (3), and (4) of section
65 1013.62, Florida Statutes, are amended to read:

66 1013.62 Charter schools capital outlay funding.—

67 (1) ~~For the 2022-2023 fiscal year, charter school capital~~
68 ~~outlay funding shall consist of state funds appropriated in the~~
69 ~~2022-2023 General Appropriations Act. Beginning in fiscal year~~
70 ~~2023-2024,~~ Charter school capital outlay funding shall consist
71 of state funds when such funds are appropriated in the General
72 Appropriations Act and revenue resulting from the discretionary
73 millage authorized in s. 1011.71(2) ~~if the amount of state funds~~
74 ~~appropriated for charter school capital outlay in any fiscal~~
75 ~~year is less than the average charter school capital outlay~~

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76 | ~~funds per unweighted full-time equivalent student for the 2018-~~
 77 | ~~2019 fiscal year, multiplied by the estimated number of charter~~
 78 | ~~school students for the applicable fiscal year, and adjusted by~~
 79 | ~~changes in the Consumer Price Index issued by the United States~~
 80 | ~~Department of Labor from the previous fiscal year. Nothing in~~
 81 | ~~this subsection prohibits a school district from distributing to~~
 82 | ~~charter schools funds resulting from the discretionary millage~~
 83 | ~~authorized in s. 1011.71(2).~~

84 | (a) To be eligible to receive capital outlay funds, a
 85 | charter school must:

86 | 1.a. Have been in operation for 2 or more years;

87 | b. Be governed by a governing board established in the
 88 | state for 2 or more years which operates both charter schools
 89 | and conversion charter schools within the state;

90 | c. Be an expanded feeder chain of a charter school within
 91 | the same school district that is currently receiving charter
 92 | school capital outlay funds;

93 | d. Have been accredited by a regional accrediting
 94 | association as defined by State Board of Education rule;

95 | e. Serve students in facilities that are provided by a
 96 | business partner for a charter school-in-the-workplace pursuant
 97 | to s. 1002.33(15) (b); or

98 | f. Be operated by a hope operator pursuant to s. 1002.333.

99 | 2. Have an annual audit that does not reveal any of the
 100 | financial emergency conditions provided in s. 218.503(1) for the

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101 most recent fiscal year for which such audit results are
 102 available.

103 3. Have satisfactory student achievement based on state
 104 accountability standards applicable to the charter school.

105 4. Have received final approval from its sponsor pursuant
 106 to s. 1002.33 for operation during that fiscal year.

107 5. Serve students in facilities that are not provided by
 108 the charter school's sponsor.

109 6. Attest in writing to the department that if the charter
 110 school is nonrenewed or terminated, any unencumbered funds and
 111 all equipment and property purchased with public funds shall
 112 revert pursuant to subsection (5).

113 (b) A charter school is not eligible to receive capital
 114 outlay funds if:

115 1. It was created by the conversion of a public school and
 116 operates in facilities provided by the charter school's sponsor
 117 for a nominal fee, or at no charge, or if it is directly or
 118 indirectly operated by the school district;

119 2. It is a developmental research (laboratory) school that
 120 receives state funding for capital improvement purposes pursuant
 121 to s. 1002.32(9)(e); or

122 3. A member of the governing board, or his or her family
 123 member as defined in s. 440.13(1)(b), has an interest in or is
 124 an employee of the lessor, excluding charter schools operating
 125 pursuant to s. 1002.33(15).

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126 (2) The department shall use the following calculation
 127 methodology to allocate state funds appropriated in the General
 128 Appropriations Act to eligible charter schools:

129 ~~(a) Eligible charter schools shall be grouped into~~
 130 ~~categories based on their student populations according to the~~
 131 ~~following criteria:~~

132 ~~1. Seventy-five percent or greater who are eligible for~~
 133 ~~free or reduced-price school meals under the National School~~
 134 ~~Lunch Program or, for schools operating programs under the~~
 135 ~~Community Eligibility Provision of the Healthy, Hunger-Free Kids~~
 136 ~~Act of 2010, an equivalent percentage of the student population~~
 137 ~~eligible for free and reduced-price meals as determined by~~
 138 ~~applying the multiplier authorized under the National School~~
 139 ~~Lunch Act, 42 U.S.C. s. 1759a(a) (1) (F) (vii), to the number of~~
 140 ~~students reported for direct certification.~~

141 ~~2. Twenty-five percent or greater with disabilities as~~
 142 ~~defined in state board rule and consistent with the requirements~~
 143 ~~of the Individuals with Disabilities Education Act.~~

144 ~~(b) If an eligible charter school does not meet the~~
 145 ~~criteria for either category under paragraph (a), its FTE shall~~
 146 ~~be provided as the base amount of funding and shall be assigned~~
 147 ~~a weight of 1.0. An eligible charter school that meets the~~
 148 ~~criteria under subparagraph (a)1. or subparagraph (a)2. shall be~~
 149 ~~provided an additional 25 percent above the base funding amount,~~
 150 ~~and the total FTE shall be multiplied by a weight of 1.25. An~~

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151 ~~eligible charter school that meets the criteria under both~~
152 ~~subparagraphs (a)1. and (a)2. shall be provided an additional 50~~
153 ~~percent above the base funding amount, and the FTE for that~~
154 ~~school shall be multiplied by a weight of 1.5.~~

155 (a)(e) Divide the state appropriation for charter school
156 capital outlay ~~shall be divided~~ by the total ~~weighted~~ FTE for
157 all eligible charter schools to determine the base charter
158 school per ~~weighted~~ FTE allocation amount. The base charter
159 school per ~~weighted~~ FTE allocation amount shall be multiplied by
160 the ~~weighted~~ FTE of each charter school to determine each
161 charter school's capital outlay allocation.

162 (b)(d) ~~The department shall calculate the eligible charter~~
163 ~~school funding allocations.~~ Funds shall be allocated using full-
164 time equivalent membership from the second and third enrollment
165 surveys and ~~free and reduced-price school lunch data.~~ The
166 department shall recalculate the allocations periodically based
167 on the receipt of revised information, on a schedule established
168 by the Commissioner of Education.

169 (c)(e) The department shall distribute capital outlay
170 funds monthly, beginning in the first quarter of the fiscal
171 year, based on one-twelfth of the amount the department
172 reasonably expects the charter school to receive during that
173 fiscal year. The commissioner shall adjust subsequent
174 distributions as necessary to reflect each charter school's
175 recalculated allocation.

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176 (3) If the school board levies the discretionary millage
 177 authorized in s. 1011.71(2), ~~and the state funds appropriated~~
 178 ~~for charter school capital outlay in any fiscal year are less~~
 179 ~~than the average charter school capital outlay funds per~~
 180 ~~unweighted full-time equivalent student for the 2018-2019 fiscal~~
 181 ~~year, multiplied by the estimated number of charter school~~
 182 ~~students for the applicable fiscal year, and adjusted by changes~~
 183 ~~in the Consumer Price Index issued by the United States~~
 184 ~~Department of Labor from the previous fiscal year, the~~
 185 department shall use the following calculation methodology to
 186 determine the amount of revenue that a school district must
 187 distribute to each eligible charter school:

188 (a) Reduce the total discretionary millage revenue by the
 189 school district's annual debt service obligation incurred as of
 190 March 1, 2017, which has not been subsequently retired, and any
 191 amount of participation requirement pursuant to s.
 192 1013.64(2)(a)8. that is being satisfied by revenues raised by
 193 the discretionary millage.

194 (b) Divide the school district's adjusted discretionary
 195 millage revenue by the district's total capital outlay full-time
 196 equivalent membership and the total number of ~~unweighted~~ full-
 197 time equivalent students of each eligible charter school to
 198 determine a capital outlay allocation per full-time equivalent
 199 student.

200 (c) Multiply the capital outlay allocation per full-time

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201 equivalent student by the total number of full-time equivalent
 202 students of each eligible charter school to determine the
 203 capital outlay allocation for each charter school.

204 (d) If applicable, reduce the capital outlay allocation
 205 identified in paragraph (c) by the total amount of state funds
 206 allocated to each eligible charter school in subsection (2) to
 207 determine the maximum calculated capital outlay allocation. The
 208 amount of funds a school district must distribute to charter
 209 schools shall be as follows:

210 1. For fiscal year 2023-2024, the amount is 20 percent of
 211 the amount calculated under this paragraph.

212 2. For fiscal year 2024-2025, the amount is 40 percent of
 213 the amount calculated under this paragraph.

214 3. For fiscal year 2025-2026, the amount is 60 percent of
 215 the amount calculated under this paragraph.

216 4. For fiscal year 2026-2027, the amount is 80 percent of
 217 the amount calculated under this paragraph.

218 5. For fiscal year 2027-2028, and each fiscal year
 219 thereafter, the amount is 100 percent of the amount calculated
 220 under this paragraph.

221 (e) School districts shall distribute capital outlay funds
 222 to eligible charter schools no later than February 1 of each
 223 year, as required by this subsection, based on the amount of
 224 funds received by the district school board. School districts
 225 shall distribute any remaining capital outlay funds, as required

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226 | by this subsection, upon the receipt of such funds until the
 227 | total amount calculated pursuant to this subsection is
 228 | distributed.

229 |
 230 | By October 1 of each year, each school district shall certify to
 231 | the department the amount of debt service and participation
 232 | requirement that complies with the requirement of paragraph (a)
 233 | and can be reduced from the total discretionary millage revenue.
 234 | The Auditor General shall verify compliance with the
 235 | requirements of paragraph (a) and s. 1011.71(2)(e) during
 236 | scheduled operational audits of school districts.

237 | (4) A charter school's governing body may use charter
 238 | school capital outlay funds for the following purposes:

239 | (a) Purchase of real property.

240 | (b) Construction of school facilities.

241 | (c) Purchase, lease-purchase, or lease of permanent or
 242 | relocatable school facilities.

243 | (d) Purchase of vehicles to transport students to and from
 244 | the charter school.

245 | (e) Renovation, repair, and maintenance of school
 246 | facilities that the charter school owns or is purchasing through
 247 | a lease-purchase or long-term lease of 5 years or longer.

248 | (f) Payment of the cost of premiums for property and
 249 | casualty insurance necessary to insure the school facilities.

250 | (g) Purchase, lease-purchase, or lease of driver's

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251 education vehicles; motor vehicles used for the maintenance or
 252 operation of plants and equipment; security vehicles; or
 253 vehicles used in storing or distributing materials and
 254 equipment.

255 (h) Purchase, lease-purchase, or lease of computer and
 256 device hardware and operating system software necessary for
 257 gaining access to or enhancing the use of electronic and digital
 258 instructional content and resources; and enterprise resource
 259 software applications that are classified as capital assets in
 260 accordance with definitions of the Governmental Accounting
 261 Standards Board, have a useful life of at least 5 years, and are
 262 used to support schoolwide administration or state-mandated
 263 reporting requirements. Enterprise resource software may be
 264 acquired by annual license fees, maintenance fees, or lease
 265 agreement.

266 (i) Payment of the cost of the opening day collection for
 267 the library media center of a new school.

268
 269 Any purchase, lease-purchase, or lease made pursuant to this
 270 subsection must be at the appraised value. For purposes of this
 271 subsection, the term "appraised value" means the fair market
 272 value as determined by an independent, Florida-licensed,
 273 qualified appraiser selected by the governing board.
 274 Documentation of the appraised value shall be provided to the
 275 department upon its request. Conversion charter schools may use

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276 | capital outlay funds received through the reduction in the
277 | administrative fee provided in s. 1002.33(20) for renovation,
278 | repair, and maintenance of school facilities that are owned by
279 | the sponsor.

280 | Section 3. This act shall take effect July 1, 2023.