

Choice & Innovation Subcommittee

Wednesday, February 6, 2013

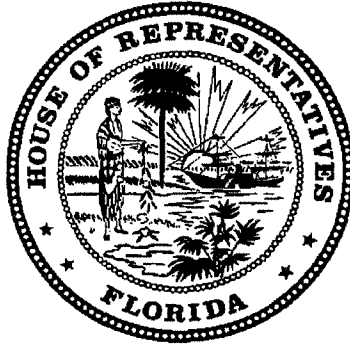
2:00 PM– 4:00 PM

404 HOB

Meeting Packet

**Will Weatherford
Speaker**

**Michael Bileca
Chair**



AGENDA

Choice & Innovation Subcommittee
Wednesday, February 6, 2013
2:00 p.m. – 4:00 p.m.
404 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following proposed committee bill:
 - PCB CIS 13-01 – Charter Schools
- IV. Closing Remarks and Adjournment

Committee Meeting Notice
HOUSE OF REPRESENTATIVES

Choice & Innovation Subcommittee

Start Date and Time: Wednesday, February 06, 2013 02:00 pm
End Date and Time: Wednesday, February 06, 2013 04:00 pm
Location: 404 HOB
Duration: 2.00 hrs

Consideration of the following proposed committee bill(s):

PCB CIS 13-01 -- Charter Schools

Pursuant to rule 7.12, the deadline for amendments to bill(s) on the agenda by a member who is not a member of the subcommittee shall be 6:00 pm, Tuesday, February 5, 2013.

By request of the Chair, all subcommittee members are asked to have amendments to bill(s) on the agenda submitted by 6:00 pm, Tuesday, February 5, 2013.

NOTICE FINALIZED on 01/30/2013 15:27 by Wright.Kaley

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CIS 13-01 Charter Schools
SPONSOR(S): Choice & Innovation Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Choice & Innovation Subcommittee		Ammel <i>GA</i>	Fudge <i>CV</i>

SUMMARY ANALYSIS

The bill includes several provisions that increase charter school accountability and transparency, including, but not limited to:

- Prohibiting a charter school, upon termination of the charter, from expending more than \$10,000 without prior written permission from the sponsor, unless such expenditure was included within the annual budget submitted to the sponsor.
- Requiring charter schools to maintain an Internet website that publishes specific information regarding the school, its personnel, and its programs.
- Prohibiting an employee of the charter school, charter management organization, or district school board from serving on the charter school governing board.
- Requiring that the admissions process of all charter schools be transparent by requiring the selection process to be observed by the sponsor or a third party mutually agreed to by the sponsor.
- Clarifying provisions for high-performing charter schools and systems by: aligning qualifications of high-performing systems with high-performing schools, requiring the Commissioner of Education to annually review and approve such status; outlining provisions for losing that status; and providing timelines for contract modification requests.
- Prohibiting the governing board or related entity of a charter school that is subject to academic or financial corrective action, from submitting additional applications to open new charter schools until the conditions of the academic or financial corrective action are satisfactorily resolved.

The bill also includes several provisions that expand the opportunity for charter school growth and flexibility, such as:

- Enabling the Florida College System institutions that provide teacher preparation programs to operate charter schools serving PreK-12th grades under certain circumstances.
- Allowing charter applicants to submit a draft charter by May 1 each year and receive district feedback prior to final submission on August 1.
- Clarifying that the Charter School Appeals Commission shall not be convened when denial of an application submitted by a high-performing charter school is appealed.
- Providing statutory clarification that provisions affecting instructional personnel contracts, do not apply to charter schools under certain circumstances.
- Clarifying that district K-12 educational facilities not being used for K-12 educational purposes must be made available to charters at no cost, with certain conditions.

The bill has no fiscal impact on state government.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter schools¹ are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a "charter."² The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.³ One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.⁴

A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.⁵ Each charter school is administered by a governing board.⁶ State universities, Florida College System (FCS) institutions, municipalities, and private, nonprofit s. 501(c)(3) of the Internal Revenue Code status organizations⁷ may operate a charter school.⁸

Charter School Accountability

Present Situation

Florida law establishes several requirements designed to hold charter schools accountable both financially and academically, including:⁹

- A detailed application and rigorous review and approval process.¹⁰
- The execution and maintenance of charter agreements between the charter school and its sponsor.¹¹
- Annual reporting,¹² annual financial audits,¹³ and sponsor monitoring of monthly financial statements.¹⁴
- Participation in statewide assessments and Florida's school grading system.¹⁵
- Interventions for unsatisfactory academic performance and financial instability.¹⁶

¹ In the 2012-13 school year, there are currently 574 charter schools operating in 44 of Florida's 67 school districts and at two state universities. Charter schools currently serve over 200,000 students. Florida Department of Education, *Charter Schools Program Fast Facts Report* (November 2012) available at http://www.floridaschoolchoice.org/Information/Charter_Schools/ (last visited January 29, 2013).

² Section 1002.33(7), F.S.

³ Section 1002.33(2) and (16), F.S.

⁴ Section 1002.33(2), F.S.

⁵ Section 1002.33(5)(a), F.S.

⁶ Section 1002.33(9)(h)-(j), F.S.

⁷ The internal revenue code defines a 501(c)(3) status organization as a private, nonprofit organization that is organized exclusively for religious, scientific, literary, or educational purposes or for the purpose of promoting amateur sports or for preventing cruelty to animals or children. These organizations are exempt from federal income taxes. 26 U.S.C. s. 501(c)(3).

⁸ Section 1002.33(5)(b)4., (12)(i), and (15)(b)-(c), F.S.

⁹ Sections 218.39, 218.503, 1002.33, and 1002.345, F.S. Charter technical career centers are subject to many of the same accountability requirements as charter schools. There are three charter technical career centers operating in Florida – the Advanced Technology College in Volusia County, the First Coast Technical College in St. Johns County, and the Lake Technical Center in Lake County. See 218.39, 218.503, 1002.34, and 1002.345, F.S.; Florida Department of Education, *List of Charter Technical Career Centers* (2012), available at <http://www.fldoe.org/workforce/pdf/chartertechnicalcenterlist.pdf>.

¹⁰ Section 1002.33(6), F.S.

¹¹ Section 1002.33(6)(h) and (7), F.S.

¹² Section 1002.33(9)(g), F.S.

¹³ Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., F.S.

¹⁴ Section 1002.33(9)(g), F.S.

¹⁵ Section 1002.33(7)(a)4. and (16)(a)2., F.S.

¹⁶ Sections 1002.33(9)n. and 1002.345, F.S.

- Reporting of student performance information to parents and the public.¹⁷
- Compliance with ethical standards for employees and governing board members.¹⁸

Parental choice also holds charter schools accountable. Parents choose whether to enroll their children in a charter or traditional public school. Dissatisfied parents of charter school students may withdraw them from the school. This creates an incentive for the charter school to provide quality educational programs for its students. Parental choice also fosters healthy competition between charter schools and traditional public schools, improving the performance of both.¹⁹

Each charter school must enter into a performance contract with its sponsor, known as a charter. The charter lists specific objectives that the charter school must meet to remain in operation. A sponsor may terminate or not renew a charter for any of the following reasons:

- Failure to participate in the state's education accountability system or meet the requirements for student performance stated in the charter;
- Failure to meet generally accepted standards of financial management;
- A violation of law; or
- Other good cause shown.²⁰

When a charter school is terminated or not renewed, the law requires reversion of state and federal funds. Unencumbered public funds revert to the sponsor while unencumbered capital outlay funds and federal charter school program grant funds revert to the department to be redistributed among eligible charter schools. The charter school is responsible for all debts of the charter school, and the district may not assume the debt from any contract made between the governing body of the school and a third party, unless previously agreed upon in writing by both parties.²¹

Charter schools that qualify for a school grade are graded annually.²² In addition, charter schools are required to submit an annual report to its sponsor. At a minimum, each charter school's annual report must include student achievement and financial data, the facilities currently used or planned for use by the school, and descriptive information about the charter school's personnel.²³

A charter school that earns two consecutive grades of "F" may qualify for one of three exceptions to mandatory termination. The first two exceptions provide charter schools that specifically target hard-to-serve students with an additional year to raise student performance. A charter school may qualify for one of these exceptions if:

- It is in its first three years of operation and serves a student population in the same school zone as a failing public school. Such a charter school must earn at least a grade of "D" by year three. In year four and thereafter, the exception no longer applies to the charter school.
- The state board grants the charter school a waiver of termination. To obtain a waiver, the charter school must demonstrate that the learning gains of its students on statewide assessments are comparable or better than the learning gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for one year and may only be granted once. Charter schools that have been in operation for more than five years are not eligible for a waiver.²⁴

¹⁷ Section 1002.33(21)(b) and (23), F.S.

¹⁸ Section 1002.33(24) and (26), F.S.

¹⁹ Florida Department of Education, Office of Independent Education and Parental Choice, *Florida's Charter Schools: A Decade of Progress* (Nov. 2006), available at http://www.floridaschoolchoice.org/information/charter_schools/files/Charter_10Year_Book.pdf.

²⁰ Section 1002.33(8)(a), F.S.

²¹ Section 1002.33(8)(e) and (f), F.S.

²² Sections 1002.33(7)(a)4. and (9)(k)1. and 1008.34(3), F.S. Charter schools that are classified as alternative schools may choose to receive a school improvement rating in lieu of a school grade. Section 1008.341, F.S.

²³ Section 1002.33(9)(k), F.S. The sponsor must submit the report to the Commissioner of Education. *Id.*

²⁴ Section 1002.33(9)(n)4.b.-c., F.S.

The third exception applies to traditional public schools that are reconstituted as charter schools pursuant to the differentiated accountability process. The law governing differentiated accountability controls in such cases.²⁵

Members of the charter school governing board are subject to specific standards of conduct for public officers, employees of agencies, local governmental attorneys, voting conflicts and disclosure of financial interests.²⁶ The law requires disclosure of the identity of all relatives employed by the charter school who are related to individuals with certain decision making authority, including governing board members.²⁷ Governing board members are required to participate in governance training approved by the Department of Education which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.²⁸

Effect of Proposed Changes

The federal government imposed additional requirements on state agencies receiving grants under the United States Department of Education's Charter Schools Program during the 2011-12 legislative session. One of the new requirements is as follows:

3. State law, regulations, or other policies in the State where the applicant is located require that –

B) Authorized public chartering agencies use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter.²⁹

In accordance with this federal requirement, the bill requires the sponsor to make student academic achievement for all students the most important factor when determining whether or not to renew or terminate a charter.

The bill requires each charter school to maintain an internet website that enables the public to obtain information regarding the school, its personnel, and its programs. The website must include information or online links to information regarding any entity who owns, operates, or manages the school, including any nonprofit or for-profit entity; the names of all governing officers and administrative personnel of the entity; and any management fees the school pays to the entity. The information or online links must be prominently displayed and easily accessible to visitors of the website.

Once a charter school receives a notice of nonrenewal or termination it must obtain prior written approval from the sponsor before expending more than \$10,000, unless such expenditure was included within the annual budget submitted to the sponsor pursuant to the charter contract.

Currently, charter schools earning two consecutive grades of "F" may request a waiver from the State Board of Education. The bill reduces the number of days a charter school has to file a waiver request from 30 to 15. Additionally, the bill clarifies that the waiver must be submitted within 15 days of the Department's official release of school grades and not after school grade appeals. These measures will expedite the waiver requests and hearings.

Employees of the charter school, the charter management organization, or the district school board may not serve as members of the charter school governing board.

²⁵ Section 1002.33(9)(n)4.a., F.S.; s. 1008.33(4)(b)3. and (e), F.S.

²⁶ Section 1002.33(26), F.S.

²⁷ Section 1002.33(7)(a)18., F.S.

²⁸ Section 1002.33(9)(j)4., F.S.

²⁹ Email, Florida Department of Education, Independent Education and Parental Choice (Jan. 11, 2013). See The Department of Defense and Full-Year Continuing Appropriations Act, 2011, Division B, Title VIII (P.L. 112-10).

Charter School Application Process

Present Situation

A person or entity wanting to open a charter school must submit an application on the model application form prepared by the Department of Education.³⁰ Sponsors shall receive and review all applications that are received on or before August 1 of each calendar year for charter schools that will open at the beginning of the next school year or upon a date agreed to by the sponsor and the charter applicant. Before approving or denying an application, the sponsor must allow the applicant, upon receipt of written notification, at least 7 calendar days to make technical or nonsubstantive corrections and clarifications, including, but not limited to, corrections of grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the application.³¹

Effect of Proposed Changes

The bill prohibits a sponsor from refusing to accept a charter application prior to August 1. To promote collaboration between the sponsor and the applicant, the bill allows applicants to submit a draft application on May 1 each year and requires districts to review and provide feedback to the applicant as to any potential grounds for denial within 60 days of receipt of the draft application. This allows applicants to rectify any major issues prior to final submission and affords the district more time for review of applications that are submitted early.

The bill requires the applicant to disclose whether or not they were a member of a charter school governing board or some other person with decision making authority for a charter school that was subject to a corrective action plan or financial emergency plan. The applicant must describe the circumstances surrounding that plan and the resolution of the plan. A governing board member or other related entity of a charter school under a current corrective action plan or financial recovery plan is not eligible to apply to open a new charter school.

Contractual Agreements

Present Situation

Upon approval of an application, the sponsor and the charter school must set forth the terms and conditions for the operation of the school in a written contractual agreement called a charter. The sponsor has 60 days to provide an initial contract to the charter school. The sponsor and the charter school then have 75 days to negotiate and notice the contract for final approval.³² Several school districts have included in their charters a requirement that charter schools have a certificate of occupancy (CO) 30 days prior to the first day of school and if charter schools fail to meet that deadline, it constitutes an automatic termination of the charter. As a result, some charter applicants were required to re-submit applications and work through the approval and contract process again.³³

In the case of a contract dispute, the Department of Education must provide mediation services. If the Commissioner of Education determines that the dispute cannot be settled through mediation, it may be appealed to an administrative law judge appointed by the Division of Administrative Hearings.³⁴

Currently, sponsor policies may not apply to charter schools, unless they are mutually agreed to by both the sponsor and the charter school.³⁵ These policies may or may not be incorporated into the

³⁰ Section 1002.33(6)(a), F.S.

³¹ Section 1002.33(6)(b), F.S.

³² Section 1002.33(6)(h), F.S.

³³ Telephone interview with Charter Schools Director, Florida Department of Education (Jan. 24, 2013).

³⁴ Section 1002.33(6)(h), F.S.

³⁵ Section 1002.33(5)(b)1.d., F.S.

contract. If not, and the sponsor subsequently revises such policies, the charter school may become subject to new provisions that were not mutually agreed to at the onset.

Current law stipulates that charter schools operated by a municipality or other public entity or a private, not-for-profit, s. 501(c)(3) status corporation are eligible for a 15-year charter upon approval of the district school board, if the purpose is to facilitate access to long-term financial resources for charter school construction.³⁶

In 2009, the Legislature required the Department of Education to adopt State Board of Education rules to implement, among other documents, charter and charter renewal formats for use by all charter sponsors and charter schools.³⁷

A charter may be modified, only during its initial term or any renewal term, upon the recommendation of the sponsor or the charter school's governing board and upon approval of both parties to the agreement.³⁸

Effect of Proposed Changes

Currently, the charter contracts utilized by sponsors vary from district to district. This variety lengthens the contract negotiation timeline and affects a charter school's ability to open on time. The bill requires the state board to adopt in rule a standard charter contract and prohibits a sponsor from omitting, supplementing, amending or otherwise altering the standard charter contract.³⁹ By standardizing the charter contract, the best practices used throughout the state may be incorporated thereby streamlining the contracting process. Moreover, the amount of time necessary to produce an initial contract and negotiate the final contract will be reduced. Consequently, the bill reduces the number of days for an initial contract from 60 to 30 and the number of days for negotiations from 75 to 40.

The bill requires that any sponsor policies that the charter school and sponsor agree to be incorporated into the final charter (contract). If the sponsor subsequently amends such policies, they must be presented to the charter school and if agreed to, amended into the charter. This allows the charter school to review the new policies and determine whether or not the policies are in the best interest of the charter school.

The bill specifically prohibits a sponsor from requiring a charter school to have a CO prior to 15 days before the first day of school and clarifies that the administrative law judge does have final order authority to rule on issues outlined in Section 1002.33(6)(h), F.S.⁴⁰

Charter schools and sponsors are provided more flexibility when negotiating long-term charters (beyond the initial 4 or 5 years), by removing the need to demonstrate that the long-term charter is necessary to facilitate access to long-term financial resources for construction.

The bill clarifies that modifications to the charter may include, but not be limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board and are physically located on the same campus. It also allows this type of modification to occur outside the normal contract renewal period.

³⁶ Section 1002.33(7)(a)12, F.S.

³⁷ Section 7, ch.2009-214, L.O.F.

³⁸ Section 1002.33(7)(c), F.S.

³⁹ See State Board of Education Rule 6A-6.0786, F.A.C. and Form Number IEPC-M3, Florida Model Charter Contract Format, available at <https://www.flrules.org/gateway/ruleNo.asp?id=6A-6.0786> (last visited January 29, 2013).

⁴⁰ In the Division of Administrative Hearings Case No. 12-0087, Renaissance Charter School, INC., Petitioner, vs. Leon County School Board, Respondent, it was determined that, "The statute does not specify whether the order of the administrative law judge is a final or a recommended order."

The bill aligns timelines for sponsor review and approval of a charter modification requested by a high-performing charter school with the timelines established for a charter school. The sponsor, upon receipt of such request, has 40 days to provide an initial charter to the high-performing charter school, and then the sponsor and high-performing charter school have 50 days thereafter to negotiate and notice the charter contract for final approval by the sponsor.

Student Eligibility, Enrollment and Capacity

Present Situation

Charter schools must enroll all eligible students who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, the school must conduct a random selection and enroll students accordingly.⁴¹

Currently, the capacity of a charter school is determined annually by the charter school governing board in conjunction with the sponsor, unless the charter school has obtained high-performing status pursuant to s. 1002.331, F.S. The sponsor may not require a high-performing charter school to waive its right to determine its capacity or require an enrollment cap as a condition of approval or renewal of a charter.⁴² Charter schools with high-performing status are also allowed to increase their enrollment once per year by up to 15 percent more than the capacity identified in the charter.⁴³

Effect of Proposed Changes

The bill requires that the lottery process be observed by the sponsor or a third party mutually agreed to by the charter school and sponsor.

The bill allows all charter schools the ability to determine capacity, without sponsor input, and to determine their own student enrollment. Moreover, the sponsor may not require any charter school to waive its rights to determine its own enrollment as a condition to approve or renew a charter. Finally, the sponsor may not require the charter school to enroll, or identify the specific students it will enroll, prior to the start of the school year as a condition of approval or renewal of a charter.

Exemption from Statutes – Teacher Compensation

Present Situation

Charter schools are generally exempt from the Florida K-20 Education Code (Chapters 1000-1013, F.S.), unless compliance with a particular statute is specifically required by law.⁴⁴ In 2011, the Legislature enacted the Student Success Act (Act), which required school districts and charter schools to implement reforms to educator compensation, performance evaluations, and contracts. These reforms were designed for implementation by traditional public schools; however, charter schools are required to implement them in the same manner as school districts.⁴⁵ As an unintended result, some school districts have interpreted the Act to require charter schools to implement the same employment policies as traditional public schools, even though implementation of a particular policy requires a

⁴¹ Section 1002.33(10)(b), F.S.

⁴² Section 1002.33(10)(h), F.S.

⁴³ Section 1002.331(2)(a), F.S.

⁴⁴ Section 1002.33(16), F.S.

⁴⁵ Chapter 2011-1, L.O.F. There are 224 charter schools participating in Florida's Race to the Top grant. These charter schools will be implementing reforms to performance evaluations and compensation systems. Florida Department of Education, *LEA Approval Status List*, <http://www.fldoe.org/arra/Racetothetop-archive.asp> (last visited Feb. 27, 2012).

complete structural shift from a private sector employment model to a model designed for public employers.⁴⁶

Effect of Proposed Changes

The bill makes several changes to clarify the extent to which charter schools must comply with the Act's educator compensation, performance evaluation, and contracting requirements. The bill clarifies that provisions related to instructional personnel workforce reductions and contracts do not apply to charter schools, unless the school awards contracts and such contracts are for a term longer than one year. Charter schools must award annual salary adjustments to instructional personnel based upon annual performance evaluation results (like traditional public schools). However, flexibility is provided to determine salary supplements and other methods of compensation.⁴⁷

The bill clarifies the meaning of "substantive requirements" by requiring that a charter school's evaluation instrument comply with subsection (2), (3), and (7) of s. 1012.34, F.S. Thus, charter schools must develop a performance evaluation that differentiates among four performance levels, supports effective instruction and student learning growth, is designed to improve instructional quality, and uses student data from multiple sources. The evaluation must be conducted at least once per year, personnel must be fully informed of the criteria and procedures prior to evaluation, the individual's supervisor must conduct the evaluation, and the evaluator may amend an evaluation based on specific assessment data. Charter schools must also comply by using the state approved student growth formula and requirements for measuring student growth in courses without statewide assessments.⁴⁸ The net effect of the bill's educator compensation, performance evaluation, and contracting provisions is to require charter schools to adopt employment policies that incorporate key concepts promoted by the Act, while providing flexibility to shape these policies in a manner that fits the charter school context.

For purposes of interpreting Education Code statutes that a charter school is required to comply with, the bill equates a charter school's principal with a district school superintendent and a governing board with a school board. Thus, for example, when a charter school must comply with a statutory provision that imposes a duty on school boards, the charter school's governing board must perform the duty.

Federal Funding Reimbursement

Present Situation

Charter schools, like traditional public schools, receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA),⁴⁹ Title I programs for disadvantaged students,⁵⁰ and Title II programs for improving teacher quality.⁵¹ Typically, federal education programs are structured so that funding flows from the federal government to a state educational agency,⁵² which then awards subgrants to local education agencies (LEA) within the state.⁵³ School districts are the LEA

⁴⁶ Brief for School Board of Orange County, at 12-13, *Response to the State Board of Education in Appeal by Renaissance Charter School, Orlando* (Dec. 12, 2011)(on file with committee). For example, at least one school district has interpreted the Act's contract and workforce reduction provisions to prohibit charter schools from employing teachers on an at-will basis. *Id.*

⁴⁷ For example, the Act's salary schedule provisions provide opportunities for teachers to earn salary supplements based upon assignment to a Title I school or low-performing school. Charter school teachers are not assigned to schools in the same manner as teachers employed by a school district and many charter schools are single-school operations. Teachers in a charter school that does not meet these criteria, or that is not part of a system of charter schools that includes schools that meet these criteria, have no opportunity to earn these salary supplements. *See, e.g.,* s. 1012.27(1), F.S.

⁴⁸ Section 1012.34(2), (3), and (7), F.S.

⁴⁹ 20 U.S.C. s. 1411(e).

⁵⁰ 20 U.S.C. s. 6301 et. seq.

⁵¹ 20 U.S.C. ss. 6601-6641; s. 1002.33(17)(c)-(d), F.S.

⁵² The Florida Department of Education is Florida's state educational agency for federal funding purposes. *See* 20 U.S.C. s. 1412(a).

⁵³ *See* 20 U.S.C. ss. 1412(a) and 1413(a).

for district public schools, including charter schools. Federal education funds are received by the school district, which then distributes to the charter school its proportionate share of funding.⁵⁴

Each federal education program has unique policy goals and expenditure, record keeping, and annual financial and performance accountability reporting requirements.⁵⁵ Federal regulations provide penalties for grantees and subgrantees⁵⁶ that fail to comply with grant requirements. These penalties include withholding, suspension, or termination of grant funds or designation as a “high risk” grantee.⁵⁷

Federal law requires school districts to ensure that charter schools receiving federal funds comply with federal grant requirements.⁵⁸ School districts typically address issues related to a charter school’s compliance with federal grant requirements in the charter.⁵⁹ In addition, Florida law provides several mechanisms which enable school districts to provide financial oversight of charter schools. Charter schools must submit annual financial reports,⁶⁰ provide for an annual financial audit,⁶¹ and submit to the district monthly financial statements.⁶² Among other things, a charter school’s annual financial audit must include violations of law, contract provisions, or grant agreements.⁶³

According to the DOE, school districts distribute federal funds directly to charter schools, provide in-kind services in lieu of funds, or use a combination of both methods. School districts use a variety of methods to distribute federal funds directly to charter schools, including directly advancing funds, reimbursing expenditures, or making purchases on behalf of charter schools.⁶⁴

Effect of Proposes Changes

The bill requires a sponsor to monthly reimburse a charter school for expenditures of federal funds, unless another method of disbursing federal funds is mutually agreed to by the charter school and sponsor. The charter school must provide invoices evidencing expenditures to the sponsor at least 30 days before the monthly reimbursement date set by the sponsor. Charter schools that choose to receive federal funds on a reimbursement basis must comply with applicable state and federal requirements governing use of federal funds. In order to receive federal funds on a reimbursement basis, a charter school must submit to the sponsor for approval a plan outlining the charter school’s use of federal funds. Allowing charter schools to receive federal funds on a reimbursement basis provides charter schools with greater autonomy regarding purchases made with federal funds, while enabling the sponsor to oversee the charter school’s compliance with state and federal requirements governing use of such funds.

⁵⁴ Section 1002.33(17)(c), F.S.

⁵⁵ 34 C.F.R. ss. 76.702, 80.36, 80.32, 80.33, and 80.42 (fiscal, procurement, and inventory management records); 34 C.F.R. s. 80.41 (financial reports include status, cash transaction, and capital outlay reports).

⁵⁶ 34 C.F.R. s. 80.3. Federal regulations governing administration of federal education grant programs define “grantee” to mean the government to which a grant is awarded and which is accountable for the use of the funds provided, i.e. DOE. Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided, i.e., school districts. *Id.*

⁵⁷ 34 C.F.R. s. 80.43 (noncompliance with grant terms); 34 C.F.R. s. 80.12 (high-risk grantees). Special conditions are placed upon “high risk” grantees, including payment of grant funds on a reimbursement basis; withholding of authority to proceed to subsequent grant phases until performance expectations are met; or requiring additional financial reports, project monitoring, and technical or management assistance. 34 C.F.R. s. 80.12. Grant recipients who commit fraud may be debarred or suspended from participation in all federally funded programs. 34 C.F.R. s. 80.43(d); Exec. Order No. 12549, 34 C.F.R. s. 80.35.

⁵⁸ 34 C.F.R. s. 80.3; 34 C.F.R. s. 300.209(b).

⁵⁹ Telephone interview with Florida Department of Education, Charter Schools Director (Feb. 1, 2012).

⁶⁰ Section 1002.33(9)(g), F.S.

⁶¹ Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

⁶² Section 1002.33(9)(g), F.S. High-performing charter schools may submit quarterly, rather than monthly, financial statements. Section 1002.331(2)(c), F.S.

⁶³ Section 10.856(2)(b)2.c., Rules of the Auditor General.

⁶⁴ *Funding Report*, *supra* note 1, at 21-22.

Facilities for Charter Schools

Present Situation

Currently, if a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis it is made available to other public schools in the district.⁶⁵ However, there have been instances in which facilities are used for storage (some partially) or some other purpose, or not marked for disposal and such facilities still remain unavailable to charter schools. Other districts have provided buildings, at cost, to charter schools.

Effect of Proposed Changes

The bill clarifies that if a district school board facility or property that has previously been used for K-12 educational purposes is unused, or is being utilized at less than 50 percent of its Florida Inventory of School Houses (FISH) student capacity, it shall be made available at no cost to the charter school. It allows districts to give priority to charter school operators with a proven track record of academic success. In turn, the charter school must agree to target students who had previously been assigned to that school and must enroll enough students to ensure a greater capacity than the previous school year's enrollment. The charter school shall not earn capital outlay funds, and the district shall include the charter school's FTE in their capital outlay calculations and maintain the facility to the same standard it would any other district operated school in similar age and condition.

Florida College System Institution Charter Schools

Present Situation

Florida College System (FCS) institutions are statutorily authorized to, in cooperation with the school board or boards within the institution's service area, develop charter schools that offer secondary education⁶⁶ and allow students to obtain an associate degree⁶⁷ upon graduation from high school. Students have full access to all college facilities, activities, and services.⁶⁸ According to an October 2012 survey, 3 colleges reported having charter and collegiate high schools. An additional four indicated they had a charter school.⁶⁹ FCS institution charter schools may not serve students in the elementary or middle grades.⁷⁰

Effect of Proposed Changes

The bill authorizes FCS institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12. The bill further requires that charter schools offering kindergarten through grade eight under the FCS utilize a formal education program in which the student learns at least in part through online delivery of content and instruction

⁶⁵ Section 1002.33(18)(e), F.S.

⁶⁶ Under Florida law, the term "secondary school" is synonymous with "high school" (grades 9 through 12). Section 1003.01(2), F.S. (definition of "school"). Generally speaking, elementary schools serve students in kindergarten through grade 5, middle schools serve students in grades 6 through 8, and high schools serve students in grades 9 through 12. Section 1003.01(2), F.S. High school grade levels served by FCS institution charter schools vary. For example, St. Petersburg Collegiate High School serves students in grades 10 through 12. St. Petersburg Collegiate High School, *Admissions*, <http://www.spcollege.edu/spchs/Admission.html> (last visited Feb. 2, 2012). In contrast, Edison State College's two collegiate high schools serve students in grades 9 through 12. *See, e.g.*, Edison Collegiate High School, *Admissions*, <http://echs.edison.edu/about/admission-process/> (last visited Feb. 2, 2012).

⁶⁷ Associate degrees include the associate in arts, associate in science, and associate in applied science degrees. *See* rule 6A-14.030(1)-(3), F.A.C.

⁶⁸ Section 1002.33(5)(b)4., F.S.

⁶⁹ *See Charter and Collegiate High Schools in the Florida College System*, Division of Florida Colleges, Florida Department of Education available at <http://www.fldoe.org/cc/OSAS/Evaluations/pdf/FY12011-01.pdf>

⁷⁰ Section 1002.33(5)(b)4., F.S.

and at least part at a supervised brick-and-mortar location away from home. This will enable FCS institutions to use these charter schools as teaching labs for prospective teachers enrolled in their teacher preparation programs.

High-Performing Charter Schools and Charter School Systems

Present Situation

Legislation enacted in 2011 established criteria for identifying charter schools and charter school systems with a track record of exemplary academic performance and financial stability.⁷¹ A high-performing charter school is a charter school that during each of the three previous years:

- Received at least two school grades of “A” and no grade below “B;”
- Received an unqualified opinion⁷² on each annual financial audit; and
- Had not received an annual financial audit that reveals a financial emergency condition.⁷³

A high-performing charter school system is a system of charter schools operated by a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit, s. 501(c)(3) of the Internal Revenue Code status corporation; or a private for-profit education management corporation that:

- Includes at least three high-performing charter schools in Florida;
- Has at least 50 percent of its charter schools designated as “high-performing” with no charter school receiving a school grade of “D” or “F;” and
- Has not received an annual financial audit that revealed a financial emergency condition for any charter school operated by the entity in Florida.⁷⁴

High-performing charter schools receive various advantages. A high-performing charter school may:

- Increase the school’s enrollment once per year;
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served;⁷⁵
- Submit quarterly, rather than monthly, financial statements to its sponsor;
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the school’s governing board, regardless of the charter renewal cycle; and
- Receive a modification of its charter to a term of 15 years or a 15-year charter renewal.⁷⁶

⁷¹ Sections 1 and 2, ch. 2011-232, L.O.F.

⁷² An unqualified audit opinion means that the charter school’s financial statements are materially correct. Telephone interview with Florida Auditor General staff (March 24, 2011).

⁷³ Section 1002.331(1), F.S. A financial emergency condition includes failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes; failure for one pay period to pay wages, salaries, and retirement benefits owed; or a fund balance or total net assets deficit. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements for “high-performing” status if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A “deteriorating financial condition” is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition. Section 1002.345(1)(a)3., F.S.

⁷⁴ Section 1002.332(1), F.S.

⁷⁵ Enrollment increases and grade level expansion may not exceed 15 percent of the student capacity authorized by the charter. Section 1002.331(2)(a) and (b), F.S.

⁷⁶ Section 1002.331(2), F.S. The charter may be modified or renewed for a lesser term at the option of the charter school, is subject to annual review by the sponsor, and may be terminated for grounds currently specified in statute. *Id.* A sponsor may terminate or not renew a charter school’s charter if the school fails to participate in Florida’s accountability system; fails to meet the student

In addition to these advantages, a high-performing charter school may submit a charter school application to replicate its educational program in any school district in the state.⁷⁷ Such applications may only be denied based upon limited criteria.⁷⁸ If an application submitted by a high-performing charter school is denied, the sponsor must provide the applicant and the Department of Education (DOE) with a letter of denial stating its reasoning with supporting documentation. Like other application denials, a high-performing charter school may appeal the sponsor's denial to the State Board of Education and the sponsor may submit a response to the appeal. The appeals process for high-performing charter school applications differs from other appeals in that the state board conducts the appeal without convening the Charter School Appeal Commission⁷⁹ and independently reviews whether the sponsor based its decision upon the statutory denial criteria.⁸⁰

In order to receive "high-performing" status, a charter school or charter school system must request verification by the Commissioner of Education that the school meets the eligibility requirements.⁸¹ The law provides for removal of a charter school's "high-performing" status if it receives a school grade of "C" in any two years during the term of the 15-year charter.⁸² The law does not provide a process for annually reviewing a charter school's, or charter school system's, continued eligibility for "high-performing" status. Nor does it specify a process for removing the status if a school or system is no longer eligible.⁸³

Effect of Proposed Changes

The bill requires the commissioner to annually determine a charter school's, or charter school system's, continued eligibility for "high-performing" status. A high-performing charter school or charter school system may maintain its "high-performing" status, unless the commissioner determines that the charter school or system no longer meets the eligibility criteria. If a high-performing charter school or system fails to meet the eligibility criteria, the commissioner must notify the school or system of its declassification as "high-performing." These changes establish explicit standards for reviewing continued eligibility for "high-performing" status and for declassifying high-performing charter schools and systems that fail to meet eligibility criteria.

The bill clarifies that the high-performing charter school application appeals process is conducted in the same manner as other application appeals, except that the state board conducts the appeal without

performance outcomes agreed upon in the charter; fails to meet generally accepted standards of fiscal management; or violates the law. Section 1002.33(8)(a), F.S.

⁷⁷ Section 1002.331(3)(a), F.S.

⁷⁸ Section 1002.33(6)(b)3.b., F.S. An application to replicate a high-performing charter school may only be denied if clear and convincing evidence demonstrates material noncompliance with application requirements related to curricula, student learning goals, reading instruction, and financial management; material noncompliance with law requiring charter schools to be nonsectarian; comply with student enrollment requirements; be accountable to the sponsor; be tuition free; and meet state and local health, safety, and civil rights requirements; that the proposed charter school does not substantially replicate one of the applicant's high-performing charter schools; that the applicant misrepresented important facts or concealed information during the application process; or the proposed charter school's educational program and financial management practices do not materially comply with the charter school statute. *Id.* "Material noncompliance" is a failure to follow requirements or a violation of prohibitions applicable to charter school applications which is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. Section 1002.33(6)(b), F.S. (flush-left provisions at end of paragraph).

⁷⁹ The Charter School Appeal Commission (CSAC) is a body comprised of school district and charter school representatives that reviews charter school application appeals filed with the state board. CSAC must review the appeal and make a written recommendation to the state board as to whether it should be upheld or denied. The state board must consider the CSAC's recommendation, but is not bound by it when making its final decision. Section 1002.33(6)(e)1. and 2., F.S.

⁸⁰ Section 1002.33(6)(c)3.b., F.S.

⁸¹ Sections 1002.331(5) and 1002.332(2), F.S.

⁸² Section 1002.331(4), F.S.

⁸³ *See ss.* 1002.331 and 1002.332, F.S.

convening the Charter School Appeal Commission.⁸⁴ It does require the Commissioner of Education to review the appeal and make a recommendation to the State Board of Education.

B. SECTION DIRECTORY:

Section 1: Amending s. 1002.33, F.S.; requiring policies agreed to by the sponsor and charter school to be incorporated into the charter contract; authorizing a charter school operated by a Florida College System institution to serve students in kindergarten through grade 12 if certain criteria are met; prohibiting the governing board or other related entity of a charter school subject to a corrective action plan or financial recovery plan from applying to open an additional charter school; providing disclosure requirements; revising provisions relating to the timely submission of charter school applications; providing requirements relating to the appeal of a denied application submitted by a high-performing charter school; requiring the use of a standard charter contract; reducing the amount of time for negotiation of a charter; revising provisions relating to the issuance of a final order in contract dispute cases; providing a restriction relating to a required certificate of occupancy; authorizing the consolidation of multiple charters into a single charter in certain circumstances; establishing student academic achievement as a priority in determining charter renewals and terminations; revising the timeline for charter schools to submit waiver of termination requests to the Department of Education; restricting expenditures upon nonrenewal or termination of a charter school; requiring a charter school to maintain specified information on a website; revising provisions relating to determination of a charter school's student enrollment; revising provisions requiring charter school compliance with statutes relating to education personnel compensation, contracts, and performance evaluations and workforce reductions; providing requirements for the reimbursement of federal funds to charter schools; requiring that certain unused or under-used school district facilities be made available to, or shared with, charter schools at no cost; restricting capital outlay funding; requiring the use of standard charter and charter renewal contracts and a standard evaluation instrument; providing restrictions on the employment of governing board members.

Section 2: Amending s. 1002.331, F.S.; providing requirements for modification of a charter; requiring the Commissioner of Education to annually review a high-performing charter school's eligibility for high-performing status; authorizing declassification as a high-performing charter school.

Section 3: Amending s. 1002.332, F.S.; revising requirements for classification as a high-performing charter school system; requiring the commissioner to annually review a high-performing charter school system's eligibility for high-performing status; authorizing declassification as a high-performing charter school system.

Section 4: Providing an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁸⁴ Telephone interview with Charter Schools Director, Florida Department of Education (Jan. 7, 2013). In August of 2011, 44 applications were submitted by high-performing charter schools, 4 were denied and 3 appealed directly to the State Board of Education.

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:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to charter schools; amending s.
 3 1002.33, F.S.; requiring policies agreed to by the
 4 sponsor and charter school to be incorporated into the
 5 charter contract; authorizing a charter school
 6 operated by a Florida College System institution to
 7 serve students in kindergarten through grade 12 if
 8 certain criteria are met; prohibiting the governing
 9 board or other related entity of a charter school
 10 subject to a corrective action plan or financial
 11 recovery plan from applying to open an additional
 12 charter school; providing disclosure requirements;
 13 revising provisions relating to the timely submission
 14 of charter school applications; providing requirements
 15 relating to the appeal of a denied application
 16 submitted by a high-performing charter school;
 17 requiring the use of a standard charter contract;
 18 reducing the amount of time for negotiation of a
 19 charter; revising provisions relating to the issuance
 20 of a final order in contract dispute cases; providing
 21 a restriction relating to a required certificate of
 22 occupancy; authorizing the consolidation of multiple
 23 charters into a single charter in certain
 24 circumstances; establishing student academic
 25 achievement as a priority in determining charter
 26 renewals and terminations; revising the timeline for
 27 charter schools to submit waiver of termination
 28 requests to the Department of Education; restricting

29 expenditures upon nonrenewal or termination of a
 30 charter school; requiring a charter school to maintain
 31 specified information on a website; revising
 32 provisions relating to determination of a charter
 33 school's student enrollment; revising provisions
 34 requiring charter school compliance with statutes
 35 relating to education personnel compensation,
 36 contracts, and performance evaluations and workforce
 37 reductions; providing requirements for the
 38 reimbursement of federal funds to charter schools;
 39 requiring that certain unused or under-used school
 40 district facilities be made available to, or shared
 41 with, charter schools at no cost; restricting capital
 42 outlay funding; requiring the use of standard charter
 43 and charter renewal contracts and a standard
 44 evaluation instrument; providing restrictions on the
 45 employment of governing board members; amending s.
 46 1002.331, F.S., relating to high-performing charter
 47 schools; providing requirements for modification of a
 48 charter; requiring the Commissioner of Education to
 49 annually review a high-performing charter school's
 50 eligibility for high-performing status; authorizing
 51 declassification as a high-performing charter school;
 52 amending s. 1002.332, F.S.; revising requirements for
 53 classification as a high-performing charter school
 54 system; requiring the commissioner to annually review
 55 a high-performing charter school system's eligibility
 56 for high-performing status; authorizing

57 declassification as a high-performing charter school
 58 system; providing an effective date.

59

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

61

62 Section 1. Paragraph (b) of subsection (5), paragraphs
 63 (a), (b), (c), (d), and (h) of subsection (6), paragraphs (a)
 64 and (c) of subsection (7), paragraph (a) of subsection (8),
 65 paragraph (n) of subsection (9), paragraphs (b), (h), and (i) of
 66 subsection (10), paragraph (b) of subsection (16), paragraph (c)
 67 of subsection (17), paragraph (e) of subsection (18), paragraph
 68 (a) of subsection (21), and subsection (27) of section 1002.33,
 69 Florida Statutes, are amended, and paragraphs (o) and (p) are
 70 added to subsection (9) and paragraph (c) is added to subsection
 71 (26) of that section, to read:

72 1002.33 Charter schools.—

73 (5) SPONSOR; DUTIES.—

74 (b) Sponsor duties.—

75 1.a. The sponsor shall monitor and review the charter
 76 school in its progress toward the goals established in the
 77 charter.

78 b. The sponsor shall monitor the revenues and expenditures
 79 of the charter school and perform the duties provided in s.
 80 1002.345.

81 c. The sponsor may approve a charter for a charter school
 82 before the applicant has identified space, equipment, or
 83 personnel, if the applicant indicates approval is necessary for
 84 it to raise working funds.

85 d. The sponsor ~~sponsor's policies~~ shall not apply policies
 86 to a charter school unless mutually agreed to by both the
 87 sponsor and the charter school. Each policy agreed to by the
 88 sponsor and the charter school must be incorporated into the
 89 final charter contract. If the sponsor subsequently amends any
 90 policy that affects charter schools, the sponsor and the charter
 91 school must mutually agree to the newly revised policy and
 92 incorporate the agreed-to terms into the contract through the
 93 contract amendment process. The sponsor may not hold the charter
 94 school responsible for any provision of a newly revised policy
 95 until the policy is mutually agreed to and adopted through the
 96 amendment process.

97 e. The sponsor shall ensure that the charter is innovative
 98 and consistent with the state education goals established by s.
 99 1000.03(5).

100 f. The sponsor shall ensure that the charter school
 101 participates in the state's education accountability system. If
 102 a charter school falls short of performance measures included in
 103 the approved charter, the sponsor shall report such shortcomings
 104 to the Department of Education.

105 g. The sponsor shall not be liable for civil damages under
 106 state law for personal injury, property damage, or death
 107 resulting from an act or omission of an officer, employee,
 108 agent, or governing board ~~body~~ of the charter school.

109 h. The sponsor shall not be liable for civil damages under
 110 state law for any employment actions taken by an officer,
 111 employee, agent, or governing board ~~body~~ of the charter school.

112 i. The sponsor's duties to monitor the charter school

113 shall not constitute the basis for a private cause of action.

114 j. The sponsor shall not impose additional reporting
115 requirements on a charter school without providing reasonable
116 and specific justification in writing to the charter school.

117 2. Immunity for the sponsor of a charter school under
118 subparagraph 1. applies only with respect to acts or omissions
119 not under the sponsor's direct authority as described in this
120 section.

121 3. This paragraph does not waive a district school board's
122 sovereign immunity.

123 4. A Florida College System institution may work with the
124 school district or school districts in its designated service
125 area to develop charter schools that offer secondary education.
126 These charter schools must include an option for students to
127 receive an associate degree upon high school graduation. If a
128 Florida College System institution operates an approved teacher
129 preparation program under s. 1004.04 or s. 1004.85, the
130 institution may operate no more than one charter school that
131 serves students in kindergarten through grade 12. In
132 kindergarten through grade 8, the charter school shall implement
133 innovative blended learning instructional models in which, for a
134 given course, a student learns in part through online delivery
135 of content and instruction with some element of student control
136 over time, place, path, or pace and in part at a supervised
137 brick-and-mortar location away from home. A student in a blended
138 learning course must be a full-time student of the charter
139 school and receive the online instruction in a classroom setting
140 at the charter school. District school boards shall cooperate

141 with and assist the Florida College System institution on the
 142 charter application. Florida College System institution
 143 applications for charter schools are not subject to the time
 144 deadlines outlined in subsection (6) and may be approved by the
 145 district school board at any time during the year. Florida
 146 College System institutions may not report FTE for any students
 147 who receive FTE funding through the Florida Education Finance
 148 Program.

149 (6) APPLICATION PROCESS AND REVIEW.—Charter school
 150 applications are subject to the following requirements:

151 (a) A person or entity that wants ~~wishing~~ to open a
 152 charter school shall prepare and submit an application on the a
 153 model application form prepared by the Department of Education
 154 which:

155 1. Demonstrates how the school will use the guiding
 156 principles and meet the statutorily defined purpose of a charter
 157 school.

158 2. Provides a detailed curriculum plan that illustrates
 159 how students will be provided instruction on ~~services to attain~~
 160 the Next Generation Sunshine State Standards.

161 3. Contains goals and objectives for improving student
 162 learning and measuring that improvement. These goals and
 163 objectives must indicate how much academic improvement students
 164 are expected to show each year, how success will be evaluated,
 165 and the specific results to be attained through instruction.

166 4. Describes the reading curriculum and differentiated
 167 strategies that will be used for students reading at grade level
 168 or higher and a separate curriculum and strategies for students

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169 | who are reading below grade level. A sponsor shall deny a
 170 | charter if the school does not propose a reading curriculum that
 171 | is consistent with effective teaching strategies that are
 172 | grounded in scientifically based reading research.

173 | 5. Contains an annual financial plan for each year that
 174 | the applicant intends to operate ~~requested by the charter for~~
 175 | ~~operation of~~ the school for up to 5 years. This plan must
 176 | contain anticipated fund balances based on revenue projections,
 177 | a spending plan based on projected revenues and expenses, and a
 178 | description of controls that will safeguard finances and
 179 | projected enrollment trends.

180 | 6. Discloses whether the applicant was a member of a
 181 | charter school governing board or was a person with
 182 | decisionmaking authority for a charter school that was subject
 183 | to corrective action pursuant to subparagraph (9)(n)2., a
 184 | corrective action plan pursuant to s. 1002.345(1)(c), or a
 185 | financial recovery plan pursuant to s. 1002.345(2)(a). The
 186 | applicant must include a detailed explanation of the
 187 | circumstances requiring a corrective action plan or financial
 188 | recovery plan and the resolution of the plan. However, a
 189 | governing board member or other related entity of a charter
 190 | school under a current corrective action plan or financial
 191 | recovery plan is not eligible to apply to open an additional
 192 | charter school. ~~Documents that the applicant has participated in~~
 193 | ~~the training required in subparagraph (f)2. A sponsor may~~
 194 | ~~require an applicant to provide additional information as an~~
 195 | ~~addendum to the charter school application described in this~~
 196 | ~~paragraph.~~

197 7. For the establishment of a virtual charter school,
 198 documents that the applicant has contracted with a provider of
 199 virtual instruction services pursuant to s. 1002.45(1)(d).

200
 201 A sponsor may require an applicant to provide additional
 202 information as an addendum to the charter school application
 203 described in this paragraph.

204 (b) A sponsor shall receive and review all applications
 205 for a charter school using the ~~an~~ evaluation instrument
 206 developed by the Department of Education. A sponsor shall
 207 receive and consider charter school applications received on or
 208 before August 1 of each calendar year for charter schools to be
 209 opened at the beginning of the school district's next school
 210 year, or to be opened at a time agreed to by the applicant and
 211 the sponsor. A sponsor may not refuse to receive a charter
 212 school application submitted before August 1 and may receive an
 213 application submitted ~~applications~~ later than August 1 ~~this date~~
 214 if it chooses. In order to facilitate greater collaboration in
 215 the application process, an applicant may submit a draft charter
 216 school application on or before May 1. If a draft application is
 217 timely submitted, the sponsor shall review and provide feedback
 218 as to any potential grounds for denial within 60 days after
 219 receipt of the draft application. The applicant shall then have
 220 until August 1 to resubmit a revised and final application. A
 221 sponsor may not charge an applicant for a charter any fee for
 222 the processing or consideration of an application, and a sponsor
 223 may not base its consideration or approval of an application
 224 upon the promise of future payment of any kind. Before approving

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225 | or denying any final application, the sponsor shall allow the
 226 | applicant, upon receipt of written notification, at least 7
 227 | calendar days to make technical or nonsubstantive corrections
 228 | and clarifications, including, but not limited to, corrections
 229 | of grammatical, typographical, and like errors or missing
 230 | signatures, if such errors are identified by the sponsor as
 231 | cause to deny the application.

232 | 1. In order to facilitate an accurate budget projection
 233 | process, a sponsor shall be held harmless for FTE students who
 234 | are not included in the FTE projection due to approval of
 235 | charter school applications after the FTE projection deadline.
 236 | In a further effort to facilitate an accurate budget projection,
 237 | within 15 calendar days after receipt of a charter school
 238 | application, a sponsor shall report to the Department of
 239 | Education the name of the applicant entity, the proposed charter
 240 | school location, and its projected FTE.

241 | 2. In order to ensure fiscal responsibility, an
 242 | application for a charter school shall include a full accounting
 243 | of expected assets, a projection of expected sources and amounts
 244 | of income, including income derived from projected student
 245 | enrollments and from community support, and an expense
 246 | projection that includes full accounting of the costs of
 247 | operation, including start-up costs.

248 | 3.a. A sponsor shall by a majority vote approve or deny an
 249 | application within ~~no later than~~ 60 calendar days after the
 250 | application is received, unless the sponsor and the applicant
 251 | mutually agree in writing to temporarily postpone the vote to a
 252 | specific date, at which time the sponsor shall by a majority

253 | vote approve or deny the application. If the sponsor fails to
 254 | act on the application, an applicant may appeal to the State
 255 | Board of Education as provided in paragraph (c). If an
 256 | application is denied, the sponsor shall, within 10 calendar
 257 | days after such denial, articulate in writing the specific
 258 | reasons, based upon good cause, supporting its denial of the
 259 | charter application and shall provide the letter of denial and
 260 | supporting documentation to the applicant and to the Department
 261 | of Education.

262 | b. An application submitted by a high-performing charter
 263 | school identified pursuant to s. 1002.331 may be denied by the
 264 | sponsor only if the sponsor demonstrates by clear and convincing
 265 | evidence that:

266 | (I) The application does not materially comply with the
 267 | requirements in paragraph (a);

268 | (II) The charter school proposed in the application does
 269 | not materially comply with the requirements in paragraphs
 270 | (9) (a)-(f);

271 | (III) The proposed charter school's educational program
 272 | does not substantially replicate that of the applicant or one of
 273 | the applicant's high-performing charter schools;

274 | (IV) The applicant has made a material misrepresentation
 275 | or false statement or concealed an essential or material fact
 276 | during the application process; or

277 | (V) The proposed charter school's educational program and
 278 | financial management practices do not materially comply with the
 279 | requirements of this section.

280 |

281 Material noncompliance is a failure to follow requirements or a
 282 violation of prohibitions applicable to charter school
 283 applications, which failure is quantitatively or qualitatively
 284 significant either individually or when aggregated with other
 285 noncompliance. An applicant is considered to be replicating a
 286 high-performing charter school if the proposed school is
 287 substantially similar to at least one of the applicant's high-
 288 performing charter schools and the organization or individuals
 289 involved in the establishment and operation of the proposed
 290 school are significantly involved in the operation of replicated
 291 schools.

292 c. If the sponsor denies an application submitted by a
 293 high-performing charter school, the sponsor must, within 10
 294 calendar days after such denial, state in writing the specific
 295 reasons, based upon the criteria in sub-subparagraph b.,
 296 supporting ~~its~~ denial of the application and must provide the
 297 letter of denial and supporting documentation to the applicant
 298 and to the Department of Education. The applicant may appeal the
 299 sponsor's denial of the application ~~directly~~ to the State Board
 300 of Education pursuant to paragraph (c) and must provide the
 301 sponsor with a copy of the appeal ~~sub-subparagraph (c)3.b.~~

302 4. For budget projection purposes, the sponsor shall
 303 report to the Department of Education the approval or denial of
 304 a charter application within 10 calendar days after such
 305 approval or denial. In the event of approval, the report to the
 306 Department of Education shall include the final projected FTE
 307 for the approved charter school.

308 5. Upon approval of a charter application, the initial

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309 startup shall commence with the beginning of the public school
 310 calendar for the district in which the charter is granted unless
 311 the sponsor allows a waiver of this subparagraph for good cause.

312 (c)1. An applicant may appeal any denial of that
 313 applicant's application or failure to act on an application to
 314 the State Board of Education within ~~no later than~~ 30 calendar
 315 days after receipt of the sponsor's decision or failure to act
 316 and shall notify the sponsor of its appeal. Any response of the
 317 sponsor shall be submitted to the State Board of Education
 318 within 30 calendar days after notification of the appeal. Upon
 319 receipt of notification from the State Board of Education that a
 320 charter school applicant is filing an appeal, the Commissioner
 321 of Education shall convene a meeting of the Charter School
 322 Appeal Commission to study and make recommendations to the State
 323 Board of Education regarding its pending decision about the
 324 appeal. The commission shall forward its recommendation to the
 325 state board within ~~no later than~~ 7 calendar days before ~~prior to~~
 326 the date on which the appeal is to be heard. An appeal regarding
 327 the denial of an application submitted by a high-performing
 328 charter school pursuant to s. 1002.331 shall be conducted by the
 329 State Board of Education in accordance with this paragraph,
 330 except that the commission shall not convene to make
 331 recommendations regarding the appeal. However, the Commissioner
 332 of Education shall review the appeal and make a recommendation
 333 to the state board.

334 2. The Charter School Appeal Commission or, in the case of
 335 an appeal regarding an application submitted by a high-
 336 performing charter school, the State Board of Education may

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337 reject an appeal submission for failure to comply with
 338 procedural rules governing the appeals process. The rejection
 339 shall describe the submission errors. The appellant shall have
 340 15 calendar days after notice of rejection in which to resubmit
 341 an appeal that meets the requirements set forth in State Board
 342 of Education rule. An appeal submitted subsequent to such
 343 rejection is considered timely if the original appeal was filed
 344 within 30 calendar days after receipt of notice of the specific
 345 reasons for the sponsor's denial of the charter application.

346 3.a. The State Board of Education shall by majority vote
 347 accept or reject the decision of the sponsor within ~~no later~~
 348 ~~than~~ 90 calendar days after an appeal is filed in accordance
 349 with State Board of Education rule. The State Board of Education
 350 shall remand the application to the sponsor with its written
 351 decision that the sponsor approve or deny the application. The
 352 sponsor shall implement the decision of the State Board of
 353 Education. The decision of the State Board of Education is not
 354 subject to ~~the provisions of~~ the Administrative Procedure Act,
 355 chapter 120.

356 b. If an appeal concerns an application submitted by a
 357 high-performing charter school identified pursuant to s.
 358 1002.331, the State Board of Education shall determine whether
 359 the sponsor's denial of the application complies with the
 360 requirements in sub-subparagraph (b)3.b. ~~sponsor has shown, by~~
 361 ~~clear and convincing evidence, that:~~

362 ~~(I) The application does not materially comply with the~~
 363 ~~requirements in paragraph (a);~~

364 ~~(II) The charter school proposed in the application does~~

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365 | ~~not materially comply with the requirements in paragraphs~~
 366 | ~~(9)(a)-(f);~~

367 | ~~(III) The proposed charter school's educational program~~
 368 | ~~does not substantially replicate that of the applicant or one of~~
 369 | ~~the applicant's high-performing charter schools;~~

370 | ~~(IV) The applicant has made a material misrepresentation~~
 371 | ~~or false statement or concealed an essential or material fact~~
 372 | ~~during the application process; or~~

373 | ~~(V) The proposed charter school's educational program and~~
 374 | ~~financial management practices do not materially comply with the~~
 375 | ~~requirements of this section.~~

376 |

377 | The State Board of Education shall approve or reject the
 378 | sponsor's denial of an application no later than 90 calendar
 379 | days after an appeal is filed in accordance with State Board of
 380 | Education rule. The State Board of Education shall remand the
 381 | application to the sponsor with its written decision that the
 382 | sponsor approve or deny the application. The sponsor shall
 383 | implement the decision of the State Board of Education. The
 384 | decision of the State Board of Education is not subject to the
 385 | Administrative Procedure Act, chapter 120.

386 | (d) The sponsor shall act upon the decision of the State
 387 | Board of Education within 30 calendar days after it is received.
 388 | The State Board of Education's decision is a final action
 389 | subject to judicial review in the district court of appeal.

390 | (h) The terms and conditions for the operation of a
 391 | charter school shall be set forth by the sponsor and the
 392 | applicant in a written contractual agreement, called a charter.

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393 The applicant and sponsor shall use the standard charter adopted
 394 in state board rule pursuant to subsection (27) and the
 395 application submitted by the applicant. The sponsor may not
 396 omit, supplement, or amend any provision of the standard charter
 397 agreement. In addition, the sponsor may not insert or append
 398 attachments, addenda, or exhibits to the standard charter
 399 contract. The sponsor shall not impose unreasonable rules or
 400 regulations that violate the intent of giving charter schools
 401 greater flexibility to meet educational goals. The sponsor shall
 402 have 30 ~~60~~ days after approval of the application to provide an
 403 initial proposed charter contract to the charter school. The
 404 applicant and the sponsor shall have 40 ~~75~~ days thereafter to
 405 negotiate and notice the charter contract for final approval by
 406 the sponsor unless both parties agree to an extension. The
 407 proposed charter contract shall be provided to the charter
 408 school at least 7 calendar days before ~~prior to~~ the date of the
 409 meeting at which the charter is scheduled to be voted upon by
 410 the sponsor. The Department of Education shall provide mediation
 411 services for any dispute regarding this section subsequent to
 412 the approval of a charter application and for any dispute
 413 relating to the approved charter, except disputes regarding
 414 charter school application denials. If the Commissioner of
 415 Education determines that the dispute cannot be settled through
 416 mediation, the dispute may be appealed to an administrative law
 417 judge appointed by the Division of Administrative Hearings. The
 418 administrative law judge has final order authority to ~~may~~ rule
 419 on issues of equitable treatment of the charter school as a
 420 public school, whether proposed provisions of the charter

421 violate the intended flexibility granted charter schools by
 422 statute, or on any other matter regarding this section except a
 423 charter school application denial, a charter termination, or a
 424 charter nonrenewal and shall award the prevailing party
 425 reasonable attorney ~~attorney's~~ fees and costs incurred to be
 426 paid by the losing party. The costs of the administrative
 427 hearing shall be paid by the party whom the administrative law
 428 judge rules against.

429 (7) CHARTER.—The major issues involving the operation of a
 430 charter school shall be considered in advance and written into
 431 the charter. The charter shall be signed by the governing board
 432 of the charter school and the sponsor, following a public
 433 hearing to ensure community input.

434 (a) The charter shall address and criteria for approval of
 435 the charter shall be based on:

436 1. The school's mission, the students to be served, and
 437 the ages and grades to be included.

438 2. The focus of the curriculum, the instructional methods
 439 to be used, any distinctive instructional techniques to be
 440 employed, and identification and acquisition of appropriate
 441 technologies needed to improve educational and administrative
 442 performance, which include a means for promoting safe, ethical,
 443 and appropriate uses of technology which comply with legal and
 444 professional standards.

445 a. The charter shall ensure that reading is a primary
 446 focus of the curriculum and that resources are provided to
 447 identify and provide specialized instruction for students who
 448 are reading below grade level. The curriculum and instructional

449 strategies for reading must be consistent with the Next
 450 Generation Sunshine State Standards and grounded in
 451 scientifically based reading research.

452 b. In order to provide students with access to diverse
 453 instructional delivery models, to facilitate the integration of
 454 technology within traditional classroom instruction, and to
 455 provide students with the skills they need to compete in the
 456 21st century economy, the Legislature encourages instructional
 457 methods for blended learning courses in which a student learns
 458 in part through online delivery of content and instruction with
 459 some element of student control over time, place, path, or pace
 460 and in part at a supervised brick-and-mortar location away from
 461 home consisting of both traditional classroom and online
 462 instructional techniques. Charter schools may implement blended
 463 learning courses that ~~which~~ combine traditional classroom
 464 instruction and virtual instruction. Students in a blended
 465 learning course must be full-time students of the charter school
 466 and receive the online instruction in a classroom setting at the
 467 charter school. Instructional personnel certified pursuant to s.
 468 1012.55 who provide virtual instruction for blended learning
 469 courses may be employees of the charter school or may be under
 470 contract to provide instructional services to charter school
 471 students. At a minimum, such instructional personnel must hold
 472 an active state or school district adjunct certification under
 473 s. 1012.57 for the subject area of the blended learning course.
 474 The funding and performance accountability requirements for
 475 blended learning courses are the same as those for traditional
 476 courses.

477 3. The current incoming baseline standard of student
 478 academic achievement, the outcomes to be achieved, and the
 479 method of measurement that will be used. The criteria listed in
 480 this subparagraph shall include a detailed description of:

481 a. How the baseline student academic achievement levels
 482 and prior rates of academic progress will be established.

483 b. How these baseline rates will be compared to rates of
 484 academic progress achieved by these same students while
 485 attending the charter school.

486 c. To the extent possible, how these rates of progress
 487 will be evaluated and compared with rates of progress of other
 488 closely comparable student populations.

489
 490 The district school board is required to provide academic
 491 student performance data to charter schools for each of their
 492 students coming from the district school system, as well as
 493 rates of academic progress of comparable student populations in
 494 the district school system.

495 4. The methods used to identify the educational strengths
 496 and needs of students and how well educational goals and
 497 performance standards are met by students attending the charter
 498 school. The methods shall provide a means for the charter school
 499 to ensure accountability to its constituents by analyzing
 500 student performance data and by evaluating the effectiveness and
 501 efficiency of its major educational programs. Students in
 502 charter schools shall, at a minimum, participate in the
 503 statewide assessment program created under s. 1008.22.

504 5. In secondary charter schools, a method for determining

505 that a student has satisfied the requirements for graduation in
 506 s. 1003.428, s. 1003.429, or s. 1003.43.

507 6. A method for resolving conflicts between the governing
 508 board of the charter school and the sponsor.

509 7. The admissions procedures and dismissal procedures,
 510 including the school's code of student conduct.

511 8. The ways by which the school will achieve a
 512 racial/ethnic balance reflective of the community it serves or
 513 within the racial/ethnic range of other public schools in the
 514 same school district.

515 9. The financial and administrative management of the
 516 school, including a reasonable demonstration of the professional
 517 experience or competence of those individuals or organizations
 518 applying to operate the charter school or those hired or
 519 retained to perform such professional services and the
 520 description of clearly delineated responsibilities and the
 521 policies and practices needed to effectively manage the charter
 522 school. A description of internal audit procedures and
 523 establishment of controls to ensure that financial resources are
 524 properly managed must be included. Both public sector and
 525 private sector professional experience shall be equally valid in
 526 such a consideration.

527 10. The asset and liability projections required in the
 528 application which are incorporated into the charter and shall be
 529 compared with information provided in the annual report of the
 530 charter school.

531 11. A description of procedures that identify various
 532 risks and provide for a comprehensive approach to reduce the

533 impact of losses; plans to ensure the safety and security of
 534 students and staff; plans to identify, minimize, and protect
 535 others from violent or disruptive student behavior; and the
 536 manner in which the school will be insured, including whether or
 537 not the school will be required to have liability insurance,
 538 and, if so, the terms and conditions thereof and the amounts of
 539 coverage.

540 12. The term of the charter, which shall provide for
 541 termination ~~cancellation~~ of the charter if insufficient progress
 542 has been made in attaining the student achievement objectives of
 543 the charter and if it is not likely that such objectives can be
 544 achieved before expiration of the charter. The initial term of a
 545 charter shall be for 4 or 5 years. ~~In order to facilitate access~~
 546 ~~to long-term financial resources for charter school~~
 547 ~~construction,~~ Charter schools that are operated by a
 548 municipality or other public entity as provided by law are
 549 eligible for up to a 15-year charter, subject to approval by the
 550 district school board. A charter lab school is eligible for a
 551 charter for a term of up to 15 years. In addition, ~~to facilitate~~
 552 ~~access to long-term financial resources for charter school~~
 553 ~~construction,~~ charter schools that are operated by a private,
 554 not-for-profit, s. 501(c)(3) status corporation are eligible for
 555 up to a 15-year charter, subject to approval by the district
 556 school board. Such long-term charters remain subject to annual
 557 review and may be terminated during the term of the charter, but
 558 only according to ~~the provisions set forth in~~ subsection (8).

559 13. The facilities to be used and their location. The
 560 sponsor may not require a charter school to have a certificate

561 of occupancy for such a facility earlier than 15 calendar days
 562 before the first day of school.

563 14. The qualifications to be required of the teachers and
 564 the potential strategies used to recruit, hire, train, and
 565 retain qualified staff to achieve best value.

566 15. The governance structure of the school, including the
 567 status of the charter school as a public or private employer as
 568 required in paragraph (12)(i).

569 16. A timetable for implementing the charter which
 570 addresses the implementation of each element thereof and the
 571 date by which the charter shall be awarded in order to meet this
 572 timetable.

573 17. In the case of an existing public school that is being
 574 converted to charter status, alternative arrangements for
 575 current students who choose not to attend the charter school and
 576 for current teachers who choose not to teach in the charter
 577 school after conversion in accordance with the existing
 578 collective bargaining agreement or district school board rule in
 579 the absence of a collective bargaining agreement. However,
 580 alternative arrangements shall not be required for current
 581 teachers who choose not to teach in a charter lab school, except
 582 as authorized by the employment policies of the state university
 583 which grants the charter to the lab school.

584 18. Full disclosure of the identity of all relatives
 585 employed by the charter school who are related to the charter
 586 school owner, president, chairperson of the governing board of
 587 directors, superintendent, governing board member, principal,
 588 assistant principal, or any other person employed by the charter

589 school who has equivalent decisionmaking authority. For the
 590 purpose of this subparagraph, the term "relative" means father,
 591 mother, son, daughter, brother, sister, uncle, aunt, first
 592 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
 593 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
 594 stepfather, stepmother, stepson, stepdaughter, stepbrother,
 595 stepsister, half brother, or half sister.

596 19. Implementation of the activities authorized under s.
 597 1002.331 by the charter school when it satisfies the eligibility
 598 requirements for a high-performing charter school. A high-
 599 performing charter school shall notify its sponsor in writing by
 600 March 1 if it intends to increase enrollment or expand grade
 601 levels the following school year. The written notice shall
 602 specify the amount of the enrollment increase and the grade
 603 levels that will be added, as applicable.

604 (c) A charter may be modified during its initial term or
 605 any renewal term upon the recommendation of the sponsor or the
 606 charter school's governing board and the approval of both
 607 parties to the agreement. Modification may include, but is not
 608 limited to, consolidation of multiple charters into a single
 609 charter if the charters are operated under the same governing
 610 board and physically located on the same campus, regardless of
 611 the renewal cycle.

612 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

613 (a) The sponsor shall make student academic achievement
 614 for all students the most important factor when determining
 615 whether to renew or terminate the charter. The sponsor may also
 616 choose not to renew or may terminate the charter for any of the

617 following grounds:

618 1. Failure to participate in the state's education
 619 accountability system created in s. 1008.31, as required in this
 620 section, or failure to meet the requirements for student
 621 performance stated in the charter.

622 2. Failure to meet generally accepted standards of fiscal
 623 management.

624 3. Violation of law.

625 4. Other good cause shown.

626 (9) CHARTER SCHOOL REQUIREMENTS.—

627 (n)1. The director and a representative of the governing
 628 board of a charter school that has earned a grade of "D" or "F"
 629 pursuant to s. 1008.34(2) shall appear before the sponsor to
 630 present information concerning each contract component having
 631 noted deficiencies. The director and a representative of the
 632 governing board shall submit to the sponsor for approval a
 633 school improvement plan to raise student achievement. Upon
 634 approval by the sponsor, the charter school shall begin
 635 implementation of the school improvement plan. The department
 636 shall offer technical assistance and training to the charter
 637 school and its governing board and establish guidelines for
 638 developing, submitting, and approving such plans.

639 2.a. If a charter school earns three consecutive grades of
 640 "D," two consecutive grades of "D" followed by a grade of "F,"
 641 or two nonconsecutive grades of "F" within a 3-year period, the
 642 charter school governing board shall choose one of the following
 643 corrective actions:

644 (I) Contract for educational services to be provided

645 directly to students, instructional personnel, and school
 646 administrators, as prescribed in state board rule;

647 (II) Contract with an outside entity that has a
 648 demonstrated record of effectiveness to operate the school;

649 (III) Reorganize the school under a new director or
 650 principal who is authorized to hire new staff; or

651 (IV) Voluntarily close the charter school.

652 b. The charter school must implement the corrective action
 653 in the school year following receipt of a third consecutive
 654 grade of "D," a grade of "F" following two consecutive grades of
 655 "D," or a second nonconsecutive grade of "F" within a 3-year
 656 period.

657 c. The sponsor may annually waive a corrective action if
 658 it determines that the charter school is likely to improve a
 659 letter grade if additional time is provided to implement the
 660 intervention and support strategies prescribed by the school
 661 improvement plan. Notwithstanding this sub-subparagraph, a
 662 charter school that earns a second consecutive grade of "F" is
 663 subject to subparagraph 4.

664 d. A charter school is no longer required to implement a
 665 corrective action if it improves by at least one letter grade.
 666 However, the charter school must continue to implement
 667 strategies identified in the school improvement plan. The
 668 sponsor must annually review implementation of the school
 669 improvement plan to monitor the school's continued improvement
 670 pursuant to subparagraph 5.

671 e. A charter school implementing a corrective action that
 672 does not improve by at least one letter grade after 2 full

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673 school years of implementing the corrective action must select a
 674 different corrective action. Implementation of the new
 675 corrective action must begin in the school year following the
 676 implementation period of the existing corrective action, unless
 677 the sponsor determines that the charter school is likely to
 678 improve a letter grade if additional time is provided to
 679 implement the existing corrective action. Notwithstanding this
 680 sub-subparagraph, a charter school that earns a second
 681 consecutive grade of "F" while implementing a corrective action
 682 is subject to subparagraph 4.

683 3. A charter school with a grade of "D" or "F" that
 684 improves by at least one letter grade must continue to implement
 685 the strategies identified in the school improvement plan. The
 686 sponsor must annually review implementation of the school
 687 improvement plan to monitor the school's continued improvement
 688 pursuant to subparagraph 5.

689 4. The sponsor shall terminate a charter if the charter
 690 school earns two consecutive grades of "F" unless:

691 a. The charter school is established to turn around the
 692 performance of a district public school pursuant to s.
 693 1008.33(4)(b)3. Such charter schools shall be governed by s.
 694 1008.33;

695 b. The charter school serves a student population the
 696 majority of which resides in a school zone served by a district
 697 public school that earned a grade of "F" in the year before the
 698 charter school opened and the charter school earns at least a
 699 grade of "D" in its third year of operation. The exception
 700 provided under this sub-subparagraph does not apply to a charter

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701 school in its fourth year of operation and thereafter; or
 702 c. The state board grants the charter school a waiver of
 703 termination. The charter school must request the waiver within
 704 15 ~~30~~ days after the department's official release ~~completion~~ of
 705 school grades ~~grade appeals~~. The state board may waive
 706 termination if the charter school demonstrates that the learning
 707 gains of its students on statewide assessments are comparable to
 708 or better than the learning gains of similarly situated students
 709 enrolled in nearby district public schools. The waiver is valid
 710 for 1 year and may only be granted once. Charter schools that
 711 have been in operation for more than 5 years are not eligible
 712 for a waiver under this sub-subparagraph.

713 5. The director and a representative of the governing
 714 board of a graded charter school that has implemented a school
 715 improvement plan under this paragraph shall appear before the
 716 sponsor at least once a year to present information regarding
 717 the progress of intervention and support strategies implemented
 718 by the school pursuant to the school improvement plan and
 719 corrective actions, if applicable. The sponsor shall communicate
 720 at the meeting, and in writing to the director, the services
 721 provided to the school to help the school address its
 722 deficiencies.

723 6. Notwithstanding any provision of this paragraph except
 724 sub-subparagraphs 4.a.-c., the sponsor may terminate the charter
 725 at any time pursuant to subsection (8).

726 (o) Upon notification of nonrenewal or termination of its
 727 charter, a charter school may not expend more than \$10,000
 728 without prior written approval from the sponsor, unless such

729 expenditure was included within the annual budget submitted to
 730 the sponsor pursuant to the charter contract.

731 (p) Each charter school shall maintain a website that
 732 enables the public to obtain information regarding the school,
 733 its personnel, and its programs. The website shall include
 734 information or online links to information regarding any entity
 735 that owns, operates, or manages the school, including any
 736 nonprofit or for-profit entity; the names of all governing
 737 officers and administrative personnel of the entity; and any
 738 fees the school pays to the entity. The information or online
 739 links must be prominently displayed and easily accessible to
 740 visitors of the website.

741 (10) ELIGIBLE STUDENTS.-

742 (b) The charter school shall enroll an eligible student
 743 who submits a timely application, unless the number of
 744 applications exceeds the capacity of a program, class, grade
 745 level, or building. In such case, all applicants shall have an
 746 equal chance of being admitted through a random selection
 747 process observed by the sponsor or a third party mutually agreed
 748 to by the charter school and sponsor.

749 (h) The capacity of the charter school shall be determined
 750 annually by the governing board, ~~in conjunction with the~~
 751 ~~sponsor,~~ of the charter school in consideration of the factors
 752 identified in this subsection ~~unless the charter school is~~
 753 ~~designated as a high-performing charter school pursuant to s.~~
 754 ~~1002.331.~~ A sponsor may not require a charter school to waive
 755 its rights to determine its own ~~the provisions of s. 1002.331 or~~
 756 ~~require a student enrollment cap that prohibits a high-~~

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757 ~~performing charter school from increasing enrollment in~~
 758 ~~accordance with s. 1002.331(2)~~ as a condition of approval or
 759 renewal of a charter.

760 ~~(i) The capacity of a high-performing charter school~~
 761 ~~identified pursuant to s. 1002.331 shall be determined annually~~
 762 ~~by the governing board of the charter school.~~ The governing
 763 board shall notify the sponsor of any increase in enrollment by
 764 March 1 of the school year preceding the increase. A sponsor may
 765 not require a charter school to identify the names of students
 766 to be enrolled or to enroll those students before the start of
 767 the school year as a condition of approval or renewal of a
 768 charter.

769 (16) EXEMPTION FROM STATUTES.—

770 (b) Additionally, a charter school shall be in compliance
 771 with the following statutes:

772 1. Section 286.011, relating to public meetings and
 773 records, public inspection, and criminal and civil penalties.

774 2. Chapter 119, relating to public records.

775 3. Section 1003.03, relating to the maximum class size,
 776 except that the calculation for compliance pursuant to s.
 777 1003.03 shall be the average at the school level.

778 4. Section 1012.22(1)(c)5.b. ~~1012.22(1)(e)~~, relating to
 779 the implementation of a compensation system that requires annual
 780 salary adjustments for instructional personnel to be based upon
 781 performance and salary schedules.

782 5. Section 1012.33(5), relating to workforce reductions,
 783 if the charter school awards contracts to instructional
 784 personnel and the term of a contract exceeds 1 year.

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785 6. Section 1012.335, relating to contracts with
 786 instructional personnel hired on or after July 1, 2011, if the
 787 charter school awards contracts to instructional personnel and
 788 the term of a contract exceeds 1 year.

789 7. Section 1012.34(2), (3), and (7) ~~1012.34~~, relating to
 790 ~~the substantive requirements for~~ performance evaluations for
 791 instructional personnel and school administrators. For purposes
 792 of compliance with this subparagraph, the duties assigned to a
 793 district school superintendent apply to a charter school
 794 principal or his or her equivalent, and the duties assigned to a
 795 district school board apply to a charter school's governing
 796 board.

797 (17) FUNDING.—Students enrolled in a charter school,
 798 regardless of the sponsorship, shall be funded as if they are in
 799 a basic program or a special program, the same as students
 800 enrolled in other public schools in the school district. Funding
 801 for a charter lab school shall be as provided in s. 1002.32.

802 (c) If the district school board is providing programs or
 803 services to students funded by federal funds, any eligible
 804 students enrolled in charter schools in the school district
 805 shall be provided federal funds for the same level of service
 806 provided students in the schools operated by the district school
 807 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
 808 charter schools shall receive all federal funding for which the
 809 school is otherwise eligible, including Title I funding, not
 810 later than 5 months after the charter school first opens and
 811 within 5 months after any subsequent expansion of enrollment.
 812 Unless otherwise mutually agreed to by the charter school and

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813 its sponsor, and consistent with state and federal rules and
 814 regulations governing the use and disbursement of federal funds,
 815 the sponsor shall reimburse the charter school on a monthly
 816 basis for all invoices submitted by the charter school for
 817 federal funds available to the sponsor for the benefit of the
 818 charter school, the charter school's students, and the charter
 819 school's students as public school students in the school
 820 district. Such federal funds include, but are not limited to,
 821 Title I, Title II, and Individuals with Disabilities Education
 822 Act (IDEA) funds. To receive timely reimbursement for an
 823 invoice, the charter school must submit the invoice to the
 824 sponsor at least 30 days before the monthly date of
 825 reimbursement set by the sponsor. In order to be reimbursed, any
 826 expenditure made by the charter school must comply with all
 827 applicable state and federal rules and regulations, including,
 828 but not limited to, the applicable federal Office of Management
 829 and Budget Circulars, the federal Education Department General
 830 Administrative Regulations, and program-specific statutes,
 831 rules, and regulations. Such funds may not be made available to
 832 the charter school until a plan is submitted to the sponsor for
 833 approval of the use of the funds in accordance with applicable
 834 federal requirements. The sponsor has 30 days to review and
 835 approve any plan submitted pursuant to this paragraph.

836 (18) FACILITIES.—

837 (e) If a district school board-owned ~~board~~ facility that
 838 has previously been used for K-12 educational purposes ~~or~~
 839 ~~property is available because it is surplus, marked for~~
 840 ~~disposal, or otherwise~~ unused, it shall be made available

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841 ~~provided~~ for a charter school's use at no cost on the same basis
 842 ~~as it is made available to other public schools in the district.~~
 843 If the facility was used as a K-12 public school in the previous
 844 school year, as a condition of using such a facility, the
 845 charter school shall agree to target students who had been
 846 assigned to that public school the previous school year and to
 847 enroll a sufficient number of students to ensure that the
 848 facility will be used at a greater capacity than it had been
 849 used in the previous school year. A district school board-owned
 850 facility that is being used at less than 50 percent of its
 851 Florida Inventory of School Houses (FISH) student capacity shall
 852 be shared with the charter school at no cost to the charter
 853 school, or the entire facility shall be made available to the
 854 charter school at no cost. The district school board may give
 855 priority for the use of such facility to charter schools and
 856 charter school operators with a proven record of academic
 857 success. A charter school using such a facility receiving
 858 ~~property from the school district~~ may not sell, sublease, or
 859 dispose of such facility property without written permission of
 860 the school district. The charter school may not earn capital
 861 outlay funds; however, the school district shall include the
 862 charter school's capital outlay full-time equivalent (COFTE)
 863 student count in the district's capital outlay calculations. The
 864 school district shall maintain the charter school facility at
 865 the same standard and level it would maintain any other
 866 district-operated school similar in age and condition.
 867 Similarly, for an existing public school converting to charter
 868 status, no rental or leasing fee for the existing facility or

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869 for the property normally inventoried to the conversion school
 870 may be charged by the district school board to the parents and
 871 teachers organizing the charter school. The charter school shall
 872 agree to reasonable maintenance provisions in order to maintain
 873 the facility in a manner similar to district school board
 874 standards. The Public Education Capital Outlay maintenance funds
 875 or any other maintenance funds generated by the facility
 876 operated as a conversion school shall remain with the conversion
 877 school.

878 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

879 (a) The Department of Education shall provide information
 880 to the public, directly and through sponsors, on how to form and
 881 operate a charter school and how to enroll in a charter school
 882 once it is created. This information shall include a model
 883 ~~standard~~ application form format, standard charter contract
 884 ~~format~~, standard evaluation instrument, and standard charter
 885 renewal contract format, which shall include the information
 886 specified in subsection (7) and shall be developed by consulting
 887 and negotiating with both school districts and charter schools
 888 before implementation. The charter and charter renewal contracts
 889 ~~formats~~ shall be used by charter school sponsors.

890 (26) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

891 (c) A member of a governing board may not be an employee
 892 of the charter school, charter management organization, or
 893 district school board.

894 (27) RULEMAKING.—The Department of Education, after
 895 consultation with school districts and charter school directors,
 896 shall recommend that the State Board of Education adopt rules to

897 | implement specific subsections of this section. Such rules shall
 898 | require minimum paperwork and shall not limit charter school
 899 | flexibility authorized by statute. The State Board of Education
 900 | shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to
 901 | implement a charter model application form, standard evaluation
 902 | instrument, and standard charter and charter renewal contracts
 903 | ~~formats~~ in accordance with this section.

904 | Section 2. Subsections (2), (4), and (5) of section
 905 | 1002.331, Florida Statutes, are amended to read:

906 | 1002.331 High-performing charter schools.—

907 | (2) A high-performing charter school is authorized to:

908 | (a) Increase its student enrollment once per school year
 909 | by up to 15 percent more than the capacity identified in the
 910 | charter.

911 | (b) Expand grade levels within kindergarten through grade
 912 | 12 to add grade levels not already served if any annual
 913 | enrollment increase resulting from grade level expansion is
 914 | within the limit established in paragraph (a).

915 | (c) Submit a quarterly, rather than a monthly, financial
 916 | statement to the sponsor pursuant to s. 1002.33(9)(g).

917 | (d) Consolidate under a single charter the charters of
 918 | multiple high-performing charter schools operated in the same
 919 | school district by the charter schools' governing board
 920 | regardless of the renewal cycle.

921 | (e) Receive a modification of its charter to a term of 15
 922 | years or a 15-year charter renewal. The charter may be modified
 923 | or renewed for a shorter term at the option of the high-
 924 | performing charter school. The charter must be consistent with

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925 s. 1002.33(7)(a)19. and (10)(h) ~~and (i)~~, is subject to annual
 926 review by the sponsor, and may be terminated during its term
 927 pursuant to s. 1002.33(8).

928
 929 A high-performing charter school shall notify its sponsor in
 930 writing by March 1 if it intends to increase enrollment or
 931 expand grade levels the following school year. The written
 932 notice shall specify the amount of the enrollment increase and
 933 the grade levels that will be added, as applicable. If a high-
 934 performing charter school requests to consolidate multiple
 935 charters or to modify its charter pursuant to this subsection,
 936 the sponsor shall have 40 days after receipt of that request to
 937 provide an initial draft charter to the charter school. The
 938 sponsor and charter school shall have 50 days thereafter to
 939 negotiate and notice the charter contract for final approval by
 940 the sponsor.

941 (4) A high-performing charter school may not increase
 942 enrollment or expand grade levels following any school year in
 943 which it receives a school grade of "C" or below. If the charter
 944 school receives a school grade of "C" or below in any 2 years
 945 during the term of the charter awarded under subsection (2), the
 946 term of the charter may be modified by the sponsor ~~and the~~
 947 ~~charter school loses its high-performing charter school status~~
 948 ~~until it regains that status under subsection (1).~~

949 (5) The Commissioner of Education, upon request by a
 950 charter school, shall verify that the charter school meets the
 951 criteria in subsection (1) and provide a letter to the charter
 952 school and the sponsor stating that the charter school is a

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953 | high-performing charter school pursuant to this section. The
 954 | commissioner shall annually determine whether a high-performing
 955 | charter school continues to meet the criteria in subsection (1).
 956 | A high-performing charter school shall maintain its high-
 957 | performing status unless the commissioner determines that the
 958 | charter school no longer meets the criteria in subsection (1),
 959 | at which time the commissioner shall send a letter providing
 960 | notification of its declassification as a high-performing
 961 | charter school.

962 | Section 3. Paragraph (b) of subsection (1) and paragraph
 963 | (a) of subsection (2) of section 1002.332, Florida Statutes, are
 964 | amended to read:

965 | 1002.332 High-performing charter school system.—

966 | (1) For purposes of this section, the term:

967 | (b) "High-performing charter school system" means an
 968 | entity that:

969 | 1. Operated ~~Operates~~ at least three high-performing
 970 | charter schools in the state during each of the previous 3
 971 | school years;

972 | 2. Operated ~~Operates~~ a system of charter schools in which
 973 | at least 50 percent of the charter schools were ~~are~~ high-
 974 | performing charter schools pursuant to s. 1002.331 and no
 975 | charter school earned a school grade of "D" or "F" pursuant to
 976 | s. 1008.34 in any of the previous 3 school years, except that:

977 | a. If the entity ~~has~~ assumed operation of a public school
 978 | pursuant to s. 1008.33(4)(b)3. with a school grade of "F," that
 979 | school's grade may not be considered in determining high-
 980 | performing charter school system status for a period of 3 years.

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981 b. If the entity established ~~establishes~~ a new charter
 982 school that served ~~serves~~ a student population the majority of
 983 which resided ~~resides~~ in a school zone served by a public school
 984 that earned a grade of "F" or three consecutive grades of "D"
 985 pursuant to s. 1008.34, that charter school's grade may not be
 986 considered in determining high-performing charter school system
 987 status if it attained ~~attains~~ and maintained ~~maintains~~ a school
 988 grade that was ~~is~~ higher than that of the public school serving
 989 that school zone within 3 years after establishment; and

990 3. Did ~~Has~~ not receive ~~received~~ a financial audit that
 991 revealed one or more of the financial emergency conditions set
 992 forth in s. 218.503(1) for any charter school assumed or
 993 established by the entity in the most recent 3 fiscal years for
 994 which such audits are available.

995 (2) (a) The Commissioner of Education, ~~upon request by an~~
 996 ~~entity,~~ shall verify all charter schools served by the entity
 997 and verify that the entity meets the criteria in subsection (1)
 998 for the previous ~~prior~~ school year and provide a letter to the
 999 entity stating that it is a high-performing charter school
 1000 system. The commissioner shall annually determine whether a
 1001 high-performing charter school system continues to meet the
 1002 criteria in subsection (1). A high-performing charter school
 1003 system shall maintain its high-performing status unless the
 1004 commissioner determines that the charter school system no longer
 1005 meets the criteria in subsection (1), at which time the
 1006 commissioner shall send a letter providing notification of its
 1007 declassification as a high-performing charter school system.

1008 Section 4. This act shall take effect July 1, 2013.