

1                   A bill to be entitled  
2     An act relating to charter schools; amending s.  
3     1002.33, F.S.; authorizing a charter school operated  
4     by a Florida College System institution to serve  
5     students in kindergarten through grade 12 if certain  
6     criteria are met; clarifying that the Charter School  
7     Appeal Commission shall not be convened when denial of  
8     an application submitted by a high-performing charter  
9     school is appealed; requiring charter schools to  
10    maintain an Internet website that enables the public  
11    to obtain information regarding the school, its  
12    personnel, and its programs; requiring that  
13    information regarding any entity that owns, operates,  
14    or manages the school be posted on the website;  
15    revising provisions requiring compliance with statutes  
16    relating to instructional personnel compensation and  
17    contracts, workforce reductions, and instructional  
18    personnel and school administrator performance  
19    evaluations; providing guidelines for construing  
20    statutes for which compliance is required; providing  
21    requirements for the reimbursement of federal funds to  
22    a charter school by its sponsor; requiring charter  
23    school expenditures to comply with rules and  
24    regulations to be eligible for reimbursement;  
25    requiring approval of the use of funds; establishing  
26    criteria for charter schools serving students with  
27    disabilities; authorizing certain charter schools  
28    serving students with disabilities to increase

29 enrollment, expand grade levels served, submit a  
30 quarterly financial statement, consolidate the  
31 charters of certain charter schools, and receive  
32 certain modification or renewal of its charter;  
33 providing for calculation of an administrative fee;  
34 amending s. 1002.331, F.S., relating to high-  
35 performing charter schools; requiring the Commissioner  
36 of Education to annually review a high-performing  
37 charter school's eligibility for high-performing  
38 status; requiring declassification of high-performing  
39 charter schools that fail to maintain eligibility;  
40 amending s. 1002.332, F.S., relating to high-  
41 performing charter school systems; requiring the  
42 commissioner to annually review a high-performing  
43 charter school system's eligibility for high-  
44 performing status; requiring declassification of high-  
45 performing charter school systems that fail to  
46 maintain eligibility; amending s. 1002.34, F.S.;

47 conforming a cross-reference; providing an effective  
48 date.

49  
50 Be It Enacted by the Legislature of the State of Florida:

51  
52 Section 1. Paragraph (b) of subsection (5), paragraphs  
53 (b), (c), and (d) of subsection (6), paragraph (b) of subsection  
54 (16), and paragraph (c) of subsection (17) of section 1002.33,  
55 Florida Statutes, are amended, paragraph (q) is added to  
56 subsection (9), subsections (26) and (27) are renumbered as

57 subsections (27) and (28), respectively, and a new subsection  
58 (26) is added to that section, to read:

59 1002.33 Charter schools.—

60 (5) SPONSOR; DUTIES.—

61 (b) Sponsor duties.—

62 1.a. The sponsor shall monitor and review the charter  
63 school in its progress toward the goals established in the  
64 charter.

65 b. The sponsor shall monitor the revenues and expenditures  
66 of the charter school and perform the duties provided in s.  
67 1002.345.

68 c. The sponsor may approve a charter for a charter school  
69 before the applicant has identified space, equipment, or  
70 personnel, if the applicant indicates approval is necessary for  
71 it to raise working funds.

72 d. The sponsor's policies shall not apply to a charter  
73 school unless mutually agreed to by both the sponsor and the  
74 charter school.

75 e. The sponsor shall ensure that the charter is innovative  
76 and consistent with the state education goals established by s.  
77 1000.03(5).

78 f. The sponsor shall ensure that the charter school  
79 participates in the state's education accountability system. If  
80 a charter school falls short of performance measures included in  
81 the approved charter, the sponsor shall report such shortcomings  
82 to the Department of Education.

83 g. The sponsor shall not be liable for civil damages under  
84 state law for personal injury, property damage, or death

85 resulting from an act or omission of an officer, employee,  
86 agent, or governing body of the charter school.

87 h. The sponsor shall not be liable for civil damages under  
88 state law for any employment actions taken by an officer,  
89 employee, agent, or governing body of the charter school.

90 i. The sponsor's duties to monitor the charter school  
91 shall not constitute the basis for a private cause of action.

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

95 2. Immunity for the sponsor of a charter school under  
96 subparagraph 1. applies only with respect to acts or omissions  
97 not under the sponsor's direct authority as described in this  
98 section.

99 3. This paragraph does not waive a district school board's  
100 sovereign immunity.

101 4. A Florida College System institution may work with the  
102 school district or school districts in its designated service  
103 area to develop charter schools that offer secondary education.  
104 These charter schools must include an option for students to  
105 receive an associate degree upon high school graduation. If a  
106 Florida College System institution operates an approved teacher  
107 preparation program under s. 1004.04 or s. 1004.85, the  
108 institution may operate no more than one charter school that  
109 serves students in kindergarten through grade 12. District  
110 school boards shall cooperate with and assist the Florida  
111 College System institution on the charter application. Florida  
112 College System institution applications for charter schools are

113 not subject to the time deadlines outlined in subsection (6) and  
114 may be approved by the district school board at any time during  
115 the year. Florida College System institutions may not report FTE  
116 for any students who receive FTE funding through the Florida  
117 Education Finance Program.

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

120 (b) A sponsor shall receive and review all applications  
121 for a charter school using an evaluation instrument developed by  
122 the Department of Education. A sponsor shall receive and  
123 consider charter school applications received on or before  
124 August 1 of each calendar year for charter schools to be opened  
125 at the beginning of the school district's next school year, or  
126 to be opened at a time agreed to by the applicant and the  
127 sponsor. A sponsor may receive applications later than this date  
128 if it chooses. A sponsor may not charge an applicant for a  
129 charter any fee for the processing or consideration of an  
130 application, and a sponsor may not base its consideration or  
131 approval of an application upon the promise of future payment of  
132 any kind. Before approving or denying any application, the  
133 sponsor shall allow the applicant, upon receipt of written  
134 notification, at least 7 calendar days to make technical or  
135 nonsubstantive corrections and clarifications, including, but  
136 not limited to, corrections of grammatical, typographical, and  
137 like errors or missing signatures, if such errors are identified  
138 by the sponsor as cause to deny the application.

139 1. In order to facilitate an accurate budget projection  
140 process, a sponsor shall be held harmless for FTE students who

141 are not included in the FTE projection due to approval of  
142 charter school applications after the FTE projection deadline.  
143 In a further effort to facilitate an accurate budget projection,  
144 within 15 calendar days after receipt of a charter school  
145 application, a sponsor shall report to the department of  
146 ~~Education~~ the name of the applicant entity, the proposed charter  
147 school location, and its projected FTE.

148 2. In order to ensure fiscal responsibility, an  
149 application for a charter school shall include a full accounting  
150 of expected assets, a projection of expected sources and amounts  
151 of income, including income derived from projected student  
152 enrollments and from community support, and an expense  
153 projection that includes full accounting of the costs of  
154 operation, including start-up costs.

155 3.a. A sponsor shall by a majority vote approve or deny an  
156 application no later than 60 calendar days after the application  
157 is received, unless the sponsor and the applicant mutually agree  
158 in writing to temporarily postpone the vote to a specific date,  
159 at which time the sponsor shall by a majority vote approve or  
160 deny the application. If the sponsor fails to act on the  
161 application, an applicant may appeal to the State Board of  
162 Education as provided in paragraph (c). If an application is  
163 denied, the sponsor shall, within 10 calendar days after such  
164 denial, articulate in writing the specific reasons, based upon  
165 good cause, supporting its denial of the charter application and  
166 shall provide the letter of denial and supporting documentation  
167 to the applicant and to the department of ~~Education~~.

168 b. An application submitted by a high-performing charter

169 school identified pursuant to s. 1002.331 may be denied by the  
 170 sponsor only if the sponsor demonstrates by clear and convincing  
 171 evidence that:

172 (I) The application does not materially comply with the  
 173 requirements in paragraph (a);

174 (II) The charter school proposed in the application does  
 175 not materially comply with the requirements in paragraphs  
 176 (9) (a) - (f);

177 (III) The proposed charter school's educational program  
 178 does not substantially replicate that of the applicant or one of  
 179 the applicant's high-performing charter schools;

180 (IV) The applicant has made a material misrepresentation  
 181 or false statement or concealed an essential or material fact  
 182 during the application process; or

183 (V) The proposed charter school's educational program and  
 184 financial management practices do not materially comply with the  
 185 requirements of this section.

186  
 187 Material noncompliance is a failure to follow requirements or a  
 188 violation of prohibitions applicable to charter school  
 189 applications, which failure is quantitatively or qualitatively  
 190 significant either individually or when aggregated with other  
 191 noncompliance. An applicant is considered to be replicating a  
 192 high-performing charter school if the proposed school is  
 193 substantially similar to at least one of the applicant's high-  
 194 performing charter schools and the organization or individuals  
 195 involved in the establishment and operation of the proposed  
 196 school are significantly involved in the operation of replicated

197 schools.

198 c. If the sponsor denies an application submitted by a  
199 high-performing charter school, the sponsor must, within 10  
200 calendar days after such denial, state in writing the specific  
201 reasons, based upon the criteria in sub-subparagraph b.,  
202 supporting its denial of the application and must provide the  
203 letter of denial and supporting documentation to the applicant  
204 and to the department ~~of Education~~. The applicant may appeal the  
205 sponsor's denial of the application ~~directly~~ to the state board  
206 ~~of Education~~ pursuant to paragraph (c) sub-subparagraph (c)3.b.

207 4. For budget projection purposes, the sponsor shall  
208 report to the department ~~of Education~~ the approval or denial of  
209 a charter application within 10 calendar days after such  
210 approval or denial. In the event of approval, the report to the  
211 department ~~of Education~~ shall include the final projected FTE  
212 for the approved charter school.

213 5. Upon approval of a charter application, the initial  
214 startup shall commence with the beginning of the public school  
215 calendar for the district in which the charter is granted unless  
216 the sponsor allows a waiver of this subparagraph for good cause.

217 (c)1. An applicant may appeal any denial of that  
218 applicant's application or failure to act on an application to  
219 the state board ~~of Education~~ no later than 30 calendar days  
220 after receipt of the sponsor's decision or failure to act and  
221 shall notify the sponsor of its appeal. Any response of the  
222 sponsor shall be submitted to the state board ~~of Education~~  
223 within 30 calendar days after notification of the appeal. Upon  
224 receipt of notification from the state board ~~of Education~~ that a



225 charter school applicant is filing an appeal, the Commissioner  
 226 of Education shall convene a meeting of the Charter School  
 227 Appeal Commission to study and make recommendations to the state  
 228 board ~~of Education~~ regarding its pending decision about the  
 229 appeal. The commission shall forward its recommendation to the  
 230 state board no later than 7 calendar days prior to the date on  
 231 which the appeal is to be heard. An appeal regarding the denial  
 232 of an application submitted by a high-performing charter school  
 233 pursuant to s. 1002.331 shall be conducted by the state board in  
 234 accordance with this paragraph and paragraph (d), except that  
 235 the commission is not convened to make recommendations regarding  
 236 the appeal.

237 2. The Charter School Appeal Commission or, in the case of  
 238 an appeal regarding an application submitted by a high-  
 239 performing charter school, the state board may reject an appeal  
 240 submission for failure to comply with procedural rules governing  
 241 the appeals process. The rejection shall describe the submission  
 242 errors. The appellant shall have 15 calendar days after notice  
 243 of rejection in which to resubmit an appeal that meets the  
 244 requirements set forth in state board ~~of Education~~ rule. An  
 245 appeal submitted subsequent to such rejection is considered  
 246 timely if the original appeal was filed within 30 calendar days  
 247 after receipt of notice of the specific reasons for the  
 248 sponsor's denial of the charter application.

249 3.a. The state board ~~of Education~~ shall by majority vote  
 250 accept or reject the decision of the sponsor no later than 90  
 251 calendar days after an appeal is filed in accordance with state  
 252 board ~~of Education~~ rule. The state board ~~of Education~~ shall

253 remand the application to the sponsor with its written decision  
254 that the sponsor approve or deny the application. The sponsor  
255 shall implement the decision of the state board ~~of Education~~.  
256 The decision of the state board ~~of Education~~ is not subject to  
257 the provisions of the Administrative Procedure Act, chapter 120.

258 b. If an appeal concerns an application submitted by a  
259 high-performing charter school identified pursuant to s.  
260 1002.331, the state board ~~of Education~~ shall determine whether  
261 the sponsor's denial of the application is in conformance with  
262 the requirements in sub-subparagraph (b)3.b. sponsor has shown,  
263 ~~by clear and convincing evidence, that:~~

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

266 ~~(II) The charter school proposed in the application does~~  
267 ~~not materially comply with the requirements in paragraphs~~  
268 ~~(9) (a) - (f);~~

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

272 ~~(IV) The applicant has made a material misrepresentation~~  
273 ~~or false statement or concealed an essential or material fact~~  
274 ~~during the application process; or~~

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

278

279 The state board ~~of Education~~ shall approve or reject the  
280 sponsor's denial of an application no later than 90 calendar

281 days after an appeal is filed in accordance with state board of  
282 ~~Education~~ rule. The state board of ~~Education~~ shall remand the  
283 application to the sponsor with its written decision that the  
284 sponsor approve or deny the application. The sponsor shall  
285 implement the decision of the state board of ~~Education~~. The  
286 decision of the state board of ~~Education~~ is not subject to the  
287 Administrative Procedure Act, chapter 120.

288 (d) The sponsor shall act upon the decision of the state  
289 board of ~~Education~~ within 30 calendar days after it is received.  
290 The state board's ~~Board of Education's~~ decision is a final  
291 action subject to judicial review in the district court of  
292 appeal.

293 (9) CHARTER SCHOOL REQUIREMENTS.—

294 (q) Each charter school shall maintain an Internet website  
295 that enables the public to obtain information regarding the  
296 school, its personnel, and its programs. The website shall  
297 include information or online links to information regarding any  
298 entity that owns, operates, or manages the school, including any  
299 nonprofit or for-profit entity; the names of all governing  
300 officers and administrative personnel of the entity; and any  
301 fees the school pays to the entity. The information or online  
302 links must be prominently displayed and easily accessible to  
303 visitors of the website.

304 (16) EXEMPTION FROM STATUTES.—

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

307 1. Section 286.011, relating to public meetings and  
308 records, public inspection, and criminal and civil penalties.

309 2. Chapter 119, relating to public records.

310 3. Section 1003.03, relating to the maximum class size,  
311 except that the calculation for compliance pursuant to s.  
312 1003.03 shall be the average at the school level.

313 4. Section 1012.22(1)(c)5.b. ~~1012.22(1)(e)~~, relating to  
314 the implementation of a compensation system that awards annual  
315 salary adjustments to instructional personnel based upon  
316 performance and salary schedules.

317 5. Section 1012.33(5), relating to workforce reductions,  
318 if the charter school awards contracts to instructional  
319 personnel and the term of the contract is longer than 1 year.  
320 This subparagraph does not apply to charter school instructional  
321 personnel who are at-will employees.

322 6. Section 1012.335, relating to contracts with  
323 instructional personnel hired on or after July 1, 2011, if the  
324 charter school awards contracts to instructional personnel and  
325 the term of the contract is longer than 1 year. This  
326 subparagraph does not apply to charter school instructional  
327 personnel who are at-will employees.

328 7. Section 1012.34(2) ~~1012.34~~, relating to ~~the substantive~~  
329 ~~requirements for~~ performance evaluations for instructional  
330 personnel and school administrators.

331  
332 For purposes of compliance with the statutes listed in this  
333 paragraph, the duties assigned to a district school  
334 superintendent apply to the charter school headmaster or his or  
335 her equivalent and the duties assigned to a district school  
336 board apply to the charter school's governing board.

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

342 (c) If the district school board is providing programs or  
343 services to students funded by federal funds, any eligible  
344 students enrolled in charter schools in the school district  
345 shall be provided federal funds for the same level of service  
346 provided students in the schools operated by the district school  
347 board. Unless otherwise mutually agreed to by the charter school  
348 and its sponsor, and consistent with state and federal rules and  
349 regulations governing the use and disbursement of federal funds,  
350 all federal funds available to the sponsor for the benefit of  
351 the charter school, the charter school's students, or the  
352 charter school's students as public school students in the  
353 school district, including, but not limited to, Title I, Title  
354 II, and IDEA funds, shall be reimbursed to the charter school on  
355 a monthly basis. All invoices for such funds shall be provided  
356 by the charter school to the sponsor at least 30 days before the  
357 monthly date of reimbursement set by the sponsor. In order to be  
358 reimbursed, any expenditure made by the charter school must  
359 comply with all applicable state and federal rules and  
360 regulations, including, but not limited to, applicable OMB  
361 Circulars, Education Department General Administrative  
362 Regulations, and program-specific statutes, rules, and  
363 regulations. No such funds may be made available to the charter  
364 school until a plan has been submitted to the sponsor for

365 approval of the use of such funds in accordance with applicable  
 366 federal requirements. The sponsor shall have 30 days to review  
 367 and approve any plan submitted pursuant to this paragraph.

368 Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter  
 369 schools shall receive all federal funding for which the school  
 370 is otherwise eligible, including Title I funding, not later than  
 371 5 months after the charter school first opens and within 5  
 372 months after any subsequent expansion of enrollment.

373 (26) CHARTER SCHOOLS SERVING STUDENTS WITH DISABILITIES.—

374 (a) To be eligible to operate under this subsection, a  
 375 charter school must:

376 1. Serve a population of 90 percent or more students with  
 377 disabilities as defined in s. 1007.02(2);

378 2. Be accredited by the Commission on Schools of the  
 379 Southern Association of Colleges and Schools;

380 3. Have an unqualified opinion on each financial audit  
 381 required under s. 218.39 in the most recent 3 fiscal years for  
 382 which such audits are available; and

383 4. Be either ungraded, or once graded pursuant to s.  
 384 1008.34, receive a grade no lower than "B," or once rated  
 385 pursuant to s. 1008.341, receive a school improvement rating of  
 386 "Improving."

387 (b) A charter school that meets the requirements of  
 388 paragraph (a) may:

389 1. Increase its student enrollment once per school year by  
 390 up to 15 percent more than the capacity identified in the  
 391 charter.

392 2. Add grade levels not already served within kindergarten

393 through grade 12 provided any annual enrollment increase  
394 resulting from grade level expansion is within the limit  
395 established in subparagraph 1. and the student population  
396 continues to meet the requirements of subparagraph (a)1.

397 3. Submit a quarterly, rather than a monthly, financial  
398 statement to the sponsor pursuant to paragraph (9)(g).

399 4. Consolidate under a single charter the charters of  
400 charter schools operated in the same school district by the  
401 charter schools' governing board regardless of the renewal  
402 cycle.

403 5. Receive a modification of its charter to a term of 15  
404 years or a 15-year charter renewal. The charter may be modified  
405 or renewed for a shorter term at the option of the charter  
406 school. The charter must be consistent with subparagraph  
407 (7)(a)19. and paragraphs (10)(h) and (i), is subject to annual  
408 review by the sponsor, and may be terminated during its term  
409 pursuant to subsection (8).

410 (c) The administrative fee authorized pursuant to  
411 subsection (20) shall be calculated based on unweighted full-  
412 time equivalent students.

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

415 1002.331 High-performing charter schools.—

416 (4) A high-performing charter school may not increase  
417 enrollment or expand grade levels following any school year in  
418 which it receives a school grade of "C" or below. If the charter  
419 school receives a school grade of "C" or below in any 2 years  
420 during the term of the charter awarded under subsection (2), the

421 term of the charter may be modified by the sponsor ~~and the~~  
 422 ~~charter school loses its high-performing charter school status~~  
 423 ~~until it regains that status under subsection (1).~~

424 (5) The Commissioner of Education, upon request by a  
 425 charter school, shall verify that the charter school meets the  
 426 criteria in subsection (1) and provide a letter to the charter  
 427 school and the sponsor stating that the charter school is a  
 428 high-performing charter school pursuant to this section. The  
 429 commissioner shall annually determine if a high-performing  
 430 charter school continues to meet the criteria in subsection (1).  
 431 A high-performing charter school shall maintain its high-  
 432 performing status unless the commissioner determines that the  
 433 charter school no longer meets the criteria in subsection (1),  
 434 at which time the commissioner shall send a letter providing  
 435 notification of its declassification as a high-performing  
 436 charter school.

437 Section 3. Paragraph (a) of subsection (2) of section  
 438 1002.332, Florida Statutes, is amended to read:

439 1002.332 High-performing charter school system.—

440 (2) (a) The Commissioner of Education, upon request by an  
 441 entity, shall verify that the entity meets the criteria in  
 442 subsection (1) for the prior school year and provide a letter to  
 443 the entity stating that it is a high-performing charter school  
 444 system. The commissioner shall annually determine if a high-  
 445 performing charter school system continues to meet the criteria  
 446 in subsection (1). A high-performing charter school system shall  
 447 maintain its high-performing status unless the commissioner  
 448 determines that the charter school system no longer meets the



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449 criteria in subsection (1), at which time the commissioner shall  
450 send a letter providing notification of its declassification as  
451 a high-performing charter school system.

452 Section 4. Subsection (13) of section 1002.34, Florida  
453 Statutes, is amended to read:

454 1002.34 Charter technical career centers.—

455 (13) BOARD OF DIRECTORS AUTHORITY.—The board of directors  
456 of a center may decide matters relating to the operation of the  
457 school, including budgeting, curriculum, and operating  
458 procedures, subject to the center's charter. The board of  
459 directors is responsible for performing the duties provided in  
460 s. 1002.345, including monitoring the corrective action plan.  
461 The board of directors must comply with s. 1002.33(27)  
462 ~~1002.33(26)~~.

463 Section 5. This act shall take effect July 1, 2012.