A bill to be entitled

An act relating to charter schools; amending s. 1002.33, F.S.; prohibiting sponsors from refusing to receive a charter school application submitted during the calendar year; requiring certain charter school employees or governing board members to inform a school district if he or she has completed a criminal history check in another district within a certain timeframe; requiring the school district to verify the results of such criminal history check using a specified system; prohibiting the school district from charging a fee for verifying the results of such criminal history check; requiring the department to participate in a certain clearinghouse; providing a rescreening schedule for certain instructional personnel; revising how charter schools operated by not-for-profit or municipal entities may use certain unrestricted current and capital assets; amending s. 1002.331, F.S.; specifying how many applications a high-performing charter school may submit in any school district in the state to establish and operate a new charter school; providing applicability; amending s. 1002.45, F.S.; revising the virtual instruction a virtual charter school may provide; providing an effective date.

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

Section 1. Paragraph (b) of subsection (6), paragraph (g)
of subsection (12), and paragraph (b) of subsection (17) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

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

(b) A sponsor shall receive and review all applications for a charter school using the evaluation instrument developed by the Department of Education. A sponsor shall receive and consider charter school applications received during or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district’s next school year, or to be opened at a time determined by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted by an applicant during the calendar year, before August 1 and may receive an application submitted later than August 1 if it chooses. Beginning in 2018 and thereafter, a sponsor shall receive and consider charter school applications received on or before February 1 of each calendar year for charter schools to be opened 18 months later at the beginning of the school district’s school year, or to be opened at a time determined by the applicant. A sponsor may not refuse to receive a charter school application submitted before February 1 and may receive an application submitted later than February 1 if it chooses. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of a final application upon the promise of future payment of any kind. Before approving or denying any application, the sponsor shall 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 final application.

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

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

3.a. A sponsor shall by a majority vote approve or deny an application no later than 90 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of
Education as provided in paragraph (c). If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 or a high-performing charter school system identified pursuant to s. 1002.332 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

(I) The application of a high-performing charter school does not materially comply with the requirements in paragraph (a) or, for a high-performing charter school system, the application does not materially comply with s. 1002.332(2)(b);

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

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

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

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

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

c. If the sponsor denies an application submitted by a high-performing charter school or a high-performing charter school system, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor’s denial of the application in accordance with paragraph (c).

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

5. Upon approval of an application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted. A charter school may defer the opening of the school’s operations for up
to 3 years to provide time for adequate facility planning. The charter school must provide written notice of such intent to the sponsor and the parents of enrolled students at least 30 calendar days before the first day of school.

(12) EMPLOYEES OF CHARTER SCHOOLS.—

(g) 1. A charter school shall employ or contract with employees who have undergone background screening as provided in s. 1012.32. Members of the governing board of the charter school shall also undergo background screening in a manner similar to that provided in s. 1012.32.

a. A charter school employee or governing board member who is subject to a criminal history check under this section shall inform a school district if he or she has completed a criminal history check in another school district within the last 5 years. The school district shall verify the results of the criminal history check using the shared system described in sub-subparagraph (12)(g)1.b. The school district may not charge a fee for verifying the results of a charter school employee’s or governing board member’s criminal history check.

b. The department is a qualified entity for purposes of s. 943.0542 when fulfilling its duties under this section and shall participate in the clearinghouse created under s. 435.12. The rescreening schedule of instructional personnel certified under this section, without regard to whether the previous screening was conducted by the department or by an employing school district, shall be:

(I) By December 31, 2020, for persons who serve in more than one county and submit fingerprints for rescreening after July 1, 2020, and persons for whom the last screening was
conducted on or before December 31, 2014; 

   (II) By December 31, 2021, for persons for whom the last 

screening was conducted between January 1, 2015, and December 

31, 2016; and 

   (III) By December 31, 2022, for persons for whom the last 

screening was conducted between January 1, 2017, and December 

31, 2018.

2. A charter school shall disqualify instructional 
personnel and school administrators, as defined in s. 1012.01, 
from employment in any position that requires direct contact 
with students if the personnel or administrators are ineligible 
for such employment under s. 1012.315.

3. The governing board of a charter school shall adopt 
policies establishing standards of ethical conduct for 
instructional personnel and school administrators. The policies 
must require all instructional personnel and school 
administrators, as defined in s. 1012.01, to complete training 
on the standards; establish the duty of instructional personnel 
and school administrators to report, and procedures for 
reporting, alleged misconduct by other instructional personnel 
and school administrators which affects the health, safety, or 
welfare of a student; and include an explanation of the 
liability protections provided under ss. 39.203 and 768.095. A 
charter school, or any of its employees, may not enter into a 
confidentiality agreement regarding terminated or dismissed 
instructional personnel or school administrators, or personnel 
or administrators who resign in lieu of termination, based in 
whole or in part on misconduct that affects the health, safety, 
or welfare of a student, and may not provide instructional
personnel or school administrators with employment references or
discuss the personnel’s or administrators’ performance with
prospective employers in another educational setting, without
disclosing the personnel’s or administrators’ misconduct. Any
part of an agreement or contract which has the purpose or
effect of concealing misconduct by instructional personnel or
school administrators which affects the health, safety, or
welfare of a student is void, is contrary to public policy, and
may not be enforced.

4. Before employing instructional personnel or school
administrators in any position that requires direct contact with
students, a charter school shall conduct employment history
checks of each of the personnel’s or administrators’ previous
employers, screen the instructional personnel or school
administrators through use of the educator screening tools
described in s. 1001.10(5), and document the findings. If unable
to contact a previous employer, the charter school must document
efforts to contact the employer.

5. The sponsor of a charter school that knowingly fails to
comply with this paragraph shall terminate the charter under
subsection (8).

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

(b) The basis for the agreement for funding students
enrolled in a charter school shall be the sum of the school
district’s operating funds from the Florida Education Finance
Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district’s current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law are entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation, the research-based reading allocation, and the Florida digital classrooms allocation. Total funding for each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education. For charter schools operated by a not-for-profit or municipal entity, any unrestricted current and capital assets identified in the charter school’s annual financial audit may be used for other charter schools operated by the not-for-profit or municipal entity within the state school district. Unrestricted current assets shall be used in accordance with s. 1011.62, and any unrestricted capital assets shall be used in accordance with s. 1013.62(2).

Section 2. Subsection (3) of section 1002.331, Florida Statutes, is amended to read:

1002.331 High-performing charter schools.—
(3)(a) 1. A high-performing charter school may submit an application pursuant to s. 1002.33(6) in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program. An application submitted by a high-performing charter school must state that the application is being submitted pursuant to this paragraph and must include the verification letter provided by the Commissioner of Education pursuant to subsection (4).

2. If the sponsor fails to act on the application within 90 days after receipt, the application is deemed approved and the procedure in s. 1002.33(7) applies.

(b) A high-performing charter school may submit two applications for a charter school not establish more than two charter schools within the state under paragraph (a) to be opened at a time determined by the high-performing charter school, in any year. A subsequent application to establish a charter school under paragraph (a) may not be submitted unless each charter school application commences operations or an application is otherwise withdrawn. Each charter school established in this manner achieves high-performing charter school status. However, a high-performing charter school may establish more than one charter school within the state under paragraph (a) in any year if it operates in the area of a persistently low-performing school and serves students from that school.

(c) This section applies to any high-performing charter school with an existing approved application.
1002.45 Virtual instruction programs.—

(1) PROGRAM.—

(d) A virtual charter school may provide full-time and part-time virtual instruction for students in kindergarten through grade 12 if the virtual charter school has a charter approved pursuant to s. 1002.33 authorizing full-time virtual instruction. A virtual charter school may:

1. Contract with the Florida Virtual School.
2. Contract with or be an approved provider under subsection (2).
3. Enter into an agreement with a school district to allow the participation of the virtual charter school’s students in the school district’s virtual instruction program. The agreement must indicate a process for reporting of student enrollment and the transfer of funds required by paragraph (7)(e).
4. Contract with any public or charter school to provide any course that the virtual school cannot otherwise provide.

Section 4. This act shall take effect July 1, 2020.