

By Senator Baxley

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1 A bill to be entitled
2 An act relating to charter schools; amending s.
3 1002.33, F.S.; requiring a sponsor to honor
4 irrevocable instructions by a charter school to
5 deposit certain funds; providing that certain sponsor
6 policies and charter contract provisions are void and
7 unenforceable; providing legislative intent; requiring
8 a sponsor to honor security interests, liens, and
9 encumbrances on charter school property, including
10 security interests and liens on public funds, before
11 it reverts to the sponsor; authorizing a charter
12 school to enter into certain financial arrangements;
13 providing for liberal construction; providing that a
14 charter school that pledges or assigns future payment
15 of its funding is not pledging the credit or taxing
16 power of the state or a school district; providing an
17 exception to the requirement that a district school
18 board make timely and efficient payment and
19 reimbursement to a charter school; requiring that a
20 district school board issue payment within a specified
21 period after receiving funds distributed through the
22 Florida Education Finance Program; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (b) of subsection (5), paragraph (e)
28 of subsection (8), subsection (14), and paragraph (e) of
29 subsection (17) of section 1002.33, Florida Statutes, are
30 amended to read:

31 1002.33 Charter schools.—

32 (5) SPONSOR; DUTIES.—

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33 (b) *Sponsor duties.*—

34 1.a. The sponsor shall monitor and review the charter
35 school in its progress toward the goals established in the
36 charter.

37 b. The sponsor shall monitor the revenues and expenditures
38 of the charter school and perform the duties provided in s.
39 1002.345.

40 c. The sponsor may approve a charter for a charter school
41 before the applicant has identified space, equipment, or
42 personnel, if the applicant indicates approval is necessary for
43 it to raise working funds.

44 d. The sponsor shall not apply its policies to a charter
45 school unless mutually agreed to by both the sponsor and the
46 charter school. If the sponsor subsequently amends any agreed-
47 upon sponsor policy, the version of the policy in effect at the
48 time of the execution of the charter, or any subsequent
49 modification thereof, shall remain in effect and the sponsor may
50 not hold the charter school responsible for any provision of a
51 newly revised policy until the revised policy is mutually agreed
52 upon.

53 e. The sponsor shall ensure that the charter is innovative
54 and consistent with the state education goals established by s.
55 1000.03(5).

56 f. The sponsor shall ensure that the charter school
57 participates in the state's education accountability system. If
58 a charter school falls short of performance measures included in
59 the approved charter, the sponsor shall report such shortcomings
60 to the Department of Education.

61 g. The sponsor shall not be liable for civil damages under

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62 state law for personal injury, property damage, or death
63 resulting from an act or omission of an officer, employee,
64 agent, or governing body of the charter school.

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

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

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

73 k. The sponsor shall submit an annual report to the
74 Department of Education in a web-based format to be determined
75 by the department.

76 (I) The report shall include the following information:

77 (A) The number of draft applications received on or before
78 May 1 and each applicant's contact information.

79 (B) The number of final applications received on or before
80 August 1 and each applicant's contact information.

81 (C) The date each application was approved, denied, or
82 withdrawn.

83 (D) The date each final contract was executed.

84 (II) Beginning August 31, 2013, and each year thereafter,
85 the sponsor shall submit to the department the information for
86 the applications submitted the previous year.

87 (III) The department shall compile an annual report, by
88 district, and post the report on its website by November 1 of
89 each year.

90 1. The sponsor shall honor irrevocable instructions by a

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91 charter school to deposit funds due to the charter school
92 pursuant to subsection (17). Any sponsor policy or provision in
93 a charter contract that conflicts with this sub-subparagraph is
94 void and unenforceable. It is the intent of the Legislature that
95 charter schools be authorized to enter into financial
96 arrangements that are consistent with this sub-subparagraph and
97 the guiding principles described in subsection (2).

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

102 3. This paragraph does not waive a district school board's
103 sovereign immunity.

104 4. A Florida College System institution may work with the
105 school district or school districts in its designated service
106 area to develop charter schools that offer secondary education.
107 These charter schools must include an option for students to
108 receive an associate degree upon high school graduation. If a
109 Florida College System institution operates an approved teacher
110 preparation program under s. 1004.04 or s. 1004.85, the
111 institution may operate no more than one charter school that
112 serves students in kindergarten through grade 12. In
113 kindergarten through grade 8, the charter school shall implement
114 innovative blended learning instructional models in which, for a
115 given course, a student learns in part through online delivery
116 of content and instruction with some element of student control
117 over time, place, path, or pace and in part at a supervised
118 brick-and-mortar location away from home. A student in a blended
119 learning course must be a full-time student of the charter

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120 school and receive the online instruction in a classroom setting
121 at the charter school. District school boards shall cooperate
122 with and assist the Florida College System institution on the
123 charter application. Florida College System institution
124 applications for charter schools are not subject to the time
125 deadlines outlined in subsection (6) and may be approved by the
126 district school board at any time during the year. Florida
127 College System institutions may not report FTE for any students
128 who receive FTE funding through the Florida Education Finance
129 Program.

130 5. A school district may enter into nonexclusive interlocal
131 agreements with federal and state agencies, counties,
132 municipalities, and other governmental entities that operate
133 within the geographical borders of the school district to act on
134 behalf of such governmental entities in the inspection,
135 issuance, and other necessary activities for all necessary
136 permits, licenses, and other permissions that a charter school
137 needs in order for development, construction, or operation. A
138 charter school may use, but may not be required to use, a school
139 district for these services. The interlocal agreement must
140 include, but need not be limited to, the identification of fees
141 that charter schools will be charged for such services. The fees
142 must consist of the governmental entity's fees plus a fee for
143 the school district to recover no more than actual costs for
144 providing such services. These services and fees are not
145 included within the services to be provided pursuant to
146 subsection (20).

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

148 (e) When a charter is not renewed or is terminated, the

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149 school shall be dissolved under the provisions of law under
 150 which the school was organized, and any unencumbered public
 151 funds, except for capital outlay funds and federal charter
 152 school program grant funds, from the charter school shall revert
 153 to the sponsor. Capital outlay funds provided pursuant to s.
 154 1013.62 and federal charter school program grant funds that are
 155 unencumbered shall revert to the department to be redistributed
 156 among eligible charter schools. In the event a charter school is
 157 dissolved or is otherwise terminated, all district school board
 158 property and improvements, furnishings, and equipment purchased
 159 with public funds shall automatically revert to full ownership
 160 by the district school board, subject to complete satisfaction
 161 of any lawful liens or encumbrances. Any unencumbered public
 162 funds from the charter school, district school board property
 163 and improvements, furnishings, and equipment purchased with
 164 public funds, or financial or other records pertaining to the
 165 charter school, in the possession of any person, entity, or
 166 holding company, other than the charter school, shall be held in
 167 trust upon the district school board's request, until any appeal
 168 status is resolved. The sponsor shall honor any lawful security
 169 interests, liens, and encumbrances on property, including
 170 security interests and liens on public funds, held by a charter
 171 school before such property reverts to the sponsor.

172 (14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS; INDEMNIFICATION
 173 OF THE STATE AND SCHOOL DISTRICT; CREDIT OR TAXING POWER NOT TO
 174 BE PLEDGED.—

175 (a) In addition to the powers prescribed in s. 617.0302,
 176 and notwithstanding any other provision of law, a charter school
 177 authorized in this section may enter into arrangements to borrow

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178 or otherwise secure funds and to assign, pledge, and encumber
179 its assets consistent with s. 617.0302(7). This paragraph shall
180 be liberally construed.

181 (b) Any arrangement entered into to borrow or otherwise
182 secure funds for a charter school authorized in this section
183 from a source other than the state or a school district shall
184 indemnify the state and the school district from any and all
185 liability, including, but not limited to, financial
186 responsibility for the payment of the principal or interest. Any
187 loans, bonds, or other financial agreements are not obligations
188 of the state or the school district but are obligations of the
189 charter school authority and are payable solely from the sources
190 of funds pledged by such agreement. The credit or taxing power
191 of the state or the school district shall not be pledged and no
192 debts shall be payable out of any moneys except those of the
193 legal entity in possession of a valid charter approved by a
194 district school board pursuant to this section. A charter school
195 that pledges or assigns the future payment of its funding is not
196 deemed to be pledging the credit or taxing power of the state or
197 a school district. This paragraph does not relieve the sponsor
198 of its obligations to fund a charter school pursuant to this
199 section or to honor any lawful security interests, liens, and
200 encumbrances on property, including security interests and liens
201 on public funds, held by the charter school in accordance with
202 paragraph (8) (e).

203 (17) FUNDING.—Students enrolled in a charter school,
204 regardless of the sponsorship, shall be funded as if they are in
205 a basic program or a special program, the same as students
206 enrolled in other public schools in the school district. Funding

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207 for a charter lab school shall be as provided in s. 1002.32.

208 (e) District school boards shall make timely and efficient
209 payment and reimbursement to charter schools, including
210 processing paperwork required to access special state and
211 federal funding for which they may be eligible, unless a charter
212 school's contract has been terminated and the charter school has
213 failed to file a timely appeal pursuant to subsection (8).

214 Payments of funds under paragraph (b) shall be made monthly or
215 twice a month, beginning with the start of the district school
216 board's fiscal year. Each payment shall be one-twelfth, or one
217 twenty-fourth, as applicable, of the total state and local funds
218 described in paragraph (b) and adjusted as set forth therein.
219 For the first 2 years of a charter school's operation, if a
220 minimum of 75 percent of the projected enrollment is entered
221 into the sponsor's student information system by the first day
222 of the current month, the district school board shall distribute
223 funds to the school for the months of July through October based
224 on the projected full-time equivalent student membership of the
225 charter school as submitted in the approved application. If less
226 than 75 percent of the projected enrollment is entered into the
227 sponsor's student information system by the first day of the
228 current month, the sponsor shall base payments on the actual
229 number of student enrollment entered into the sponsor's student
230 information system. Thereafter, the results of full-time
231 equivalent student membership surveys shall be used in adjusting
232 the amount of funds distributed monthly to the charter school
233 for the remainder of the fiscal year. The payments shall be
234 issued no later than 10 working days after the district school
235 board receives a distribution of state or federal funds,

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236 including funds distributed through the Florida Education
237 Finance Program pursuant to s. 1011.66, or the date the payment
238 is due pursuant to this subsection. If a warrant for payment is
239 not issued within 10 working days after receipt of funding by
240 the district school board, the school district shall pay to the
241 charter school, in addition to the amount of the scheduled
242 disbursement, interest at a rate of 1 percent per month
243 calculated on a daily basis on the unpaid balance from the
244 expiration of the 10 working days until such time as the warrant
245 is issued. The district school board may not delay payment to a
246 charter school of any portion of the funds provided in paragraph
247 (b) based on the timing of receipt of local funds by the
248 district school board.

249 Section 2. This act shall take effect July 1, 2017.