A bill to be entitled
An act relating to charter schools; amending s. 1002.33, F.S.; revising requirements for the annual reports that charter school sponsors are required to submit to the Department of Education; requiring the Charter School Appeal Commission, which is renamed the Charter School Commission, to recommend denial of a charter school application if the school does not propose a certain reading curriculum; specifying the entities from which the commission may receive and consider applications; providing that the commission may recommend approval of applications to the State Board of Education; providing that sponsors may appeal such recommendations to the state board; providing a process for the review of appeals; requiring the Commissioner of Education to review appeals and make recommendations to the state board; providing the process for that review and for consideration by the state board of the commissioner’s recommendations; requiring action by the state board on the recommendation within a specified timeframe; requiring sponsors to implement the decision of the state board; authorizing applicants to appeal to the state board certain recommendations by the commission or the commission’s failure to act on an application; providing the process for such review and the disposition of such appeals; conforming provisions to changes made by the act; authorizing applicants to appeal to the state board if the commission fails to
act on an application; requiring the commission to articulate its recommendation for denial of an application to the department within a specified timeframe after such denial; authorizing the commission to recommend denial of applications submitted by certain entities, under specified circumstances; requiring the commission to articulate its recommendation for denial of such applications to the department within a specified timeframe; authorizing applicants to appeal the commission’s recommendation for denial of an application; authorizing sponsors to provide input regarding final applications to the commission within a specified timeframe; requiring the commission to consider such input; requiring the commission to submit recommendations for approval of charter school applications to the state board; authorizing sponsors to appeal to the state board such recommendations within a specified timeframe after the commission’s decision; requiring the Commissioner of Education to review such appeals and make recommendations to the state board within a specified timeframe; requiring the state board to accept or reject such recommendations by majority vote; requiring sponsors to implement decisions of the state board; providing that state board decisions are not subject to specified provisions; conforming provisions to changes made by the act; authorizing applicants to appeal recommendations for denial of an application or the
failure to act on applications; requiring the state
board to notify the commissioner of such appeals;
requiring the commissioner to review such appeals and
make recommendations to the state board; authorizing
the commissioner to reject appeal submissions under
specified circumstances; conforming provisions to
changes made by the act; prohibiting specified
individuals and entities from submitting an
application to open a charter school for specified
periods of time; providing an exception; defining the
term “relative” for the purpose of applying the
prohibition; providing an effective date.

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

Section 1. Paragraph (b) of subsection (5) and subsection
(6) of section 1002.33, Florida Statutes, are amended, and
paragraph (r) is added to subsection (9) of that section, to
read:

1002.33 Charter schools.—
(5) SPONSOR; DUTIES.—
(b) Sponsor duties.—
1.a. The sponsor shall monitor and review the charter
school in its progress toward the goals established in the
charter.

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

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

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

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

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

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

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

i. The sponsor’s duties to monitor the charter school shall not constitute the basis for a private cause of action.
j. The sponsor shall not impose additional reporting requirements on a charter school without providing reasonable and specific justification in writing to the charter school.

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

(I) The report shall include the following information for applications reviewed by the sponsor and by the Charter School Commission established under subparagraph (6)(e)1., hereinafter referred to as “the commission”:

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

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

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

(D) The date each final contract was executed.

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

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

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

3. This paragraph does not waive a district school board’s sovereign immunity.
4. A Florida College System institution may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. If a Florida College System institution operates an approved teacher preparation program under s. 1004.04 or s. 1004.85, the institution may operate no more than one charter school that serves students in kindergarten through grade 12. In kindergarten through grade 8, the charter school shall implement innovative blended learning instructional models in which, for a given course, a student learns in part through online delivery of content and instruction with some element of student control over time, place, path, or pace and in part at a supervised brick-and-mortar location away from home. A student in a blended learning course must be a full-time student of the charter school and receive the online instruction in a classroom setting at the charter school. District school boards shall cooperate with and assist the Florida College System institution on the charter application. Florida College System institution applications for charter schools are not subject to the time deadlines outlined in subsection (6) and may be approved by the district school board at any time during the year. Florida College System institutions may not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

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

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

(a) A person or entity seeking to open a charter school shall prepare and submit an application on the standard application form prepared by the Department of Education which:

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

2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.

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

4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny, or the commission shall recommend denial of, an application if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.

5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

6. Discloses the name of each applicant, governing board member, and all proposed education services providers; the name and sponsor of any charter school operated by each applicant, each governing board member, and each proposed education services provider that has closed and the reasons for the closure; and the academic and financial history of such charter schools, which the sponsor or the commission, as applicable, shall consider in making a final determination on deciding whether to approve or deny the application.

7. Contains additional information that the sponsor or the commission may require, which must be attached as an addendum to the charter school application described in this paragraph.

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

(b) An applicant may submit an application to a sponsor or to the commission pursuant to subparagraph 1. The sponsor or the commission, as applicable, shall receive and review all applications for a charter school using the evaluation instrument developed by the Department of Education. An applicant that submits an application to the commission shall provide the application to the sponsor within 3 days after its submission to the commission. A sponsor shall receive and consider charter school applications received on 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 agreed to by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted before August 1 and may receive an application submitted later than August 1 if it chooses. Beginning in 2018 and thereafter, A sponsor or the commission, as applicable, 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 and the commission 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 and the commission may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor and the
commission 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 or the commission, as applicable, 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 or the commission as cause to deny the final application.

1. The commission may receive and consider applications from:
   a. A high-performing charter school pursuant to s. 1002.331.
   b. A high-performing charter school system pursuant to s. 1002.332.
   c. A hope operator pursuant to s. 1002.333.

2. 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.

3. 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.

4.a.3.a. A sponsor shall by a majority vote approve or deny, or the commission shall by majority vote recommend to approve or deny, an application no later than 90 calendar days after the application is received, unless the sponsor or the commission 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, or the commission shall by a majority vote recommend to approve or deny, the application. If the sponsor or the commission 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 or recommended for denial, the sponsor or the commission 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 or recommended for denial by the commission only if the sponsor or the commission 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 or the commission recommends denial of an application submitted by a high-performing charter school or a high-performing charter school system, the sponsor
or the commission, as applicable, 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 or the commission’s recommendation for denial of the application in accordance with paragraph (c).

5.a. A sponsor may provide input to the commission within 30 days after receiving a copy of the final application submitted to the commission. The commission must consider such input in reviewing the application.

b. The commission must submit its recommendation for approval of a charter school application to the State Board of Education for approval.

c. The sponsor may appeal to the state board any recommendation to approve the application by the commission no later than 30 days from the commission’s decision. Upon receipt of notification from the state board that a sponsor is filing an appeal, the commissioner shall review the appeal and make recommendations to the state board regarding its pending decision about the appeal. The commissioner shall report his or her recommendations to the state board at least 7 calendar days before the date on which the appeal is considered.

d. The state board by majority vote shall accept or reject the recommendation of the commission to approve the application no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The sponsor shall implement the decision of the state board. The decision of the
state board is not subject to chapter 120.

6.4. For budget projection purposes, the sponsor or the commission, as applicable, 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 by the sponsor or the state board, as applicable, the report to the Department of Education shall include the final projected FTE for the approved charter school.

7.5. 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.

(c)1. An applicant may appeal any denial of that applicant’s application or failure to act on an application to the State Board of Education by the sponsor no later than 30 calendar days after receipt of the sponsor’s decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal. Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward
its recommendation to the state board at least 7 calendar days 
before the date on which the appeal is to be heard.

2. An applicant may appeal any recommendation to deny that 
applicant’s application or the failure to act on an application 
by the commission to the state board no later than 30 calendar 
days after receipt of the commission’s decision or failure to 
act, and the applicant shall notify the commission of its 
appeal. The state board shall notify the commissioner of an 
applicant’s appeal. Upon receipt of notification from the state 
board that a charter school applicant is filing an appeal of the 
commission’s recommendation, the commissioner shall review the 
appeal and make recommendations to the state board regarding its 
pending decision regarding the appeal. The commissioner shall 
report his or her recommendation to the state board at least 7 
calendar days before the date on which the appeal is considered.

3.2. The Charter School Appeal commission or the 
commissioner may reject an appeal submission for failure to 
comply with procedural rules governing the appeals process. The 
rejection shall describe the submission errors. The appellant 
shall have 15 calendar days after notice of rejection in which 
to resubmit an appeal that meets the requirements set forth in 
State Board of Education rule. An appeal submitted subsequent to 
such rejection is considered timely if the original appeal was 
filed within 30 calendar days after receipt of notice of the 
specific reasons for the sponsor’s or commission’s denial of the 
charter application.

4.a.3. The State Board of Education shall by majority 
vote accept or reject the decision of the sponsor or the 
commission no later than 90 calendar days after an appeal is
filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

b. If an appeal concerns 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, the State Board of Education shall determine whether the sponsor’s or the commission’s denial was in accordance with sub-subparagraph (b)4.b. sub-subparagraph (b)3.b.

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

(e)1. The Charter School Appeal commission is established to review applications submitted pursuant to subparagraph (b)1. and to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.

2. The Charter School Appeal commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written
recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission’s recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint a number of members to the Charter School Appeal commission sufficient to ensure that no potential conflict of interest exists for any commission application review or appeal decision. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. Of the members reviewing an application or hearing the appeal, one-half must represent currently operating charter schools and one-half must represent sponsors. The commissioner or a named designee shall chair the Charter School Appeal commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the applicant appellant and the sponsor. The commission may request information to clarify the
documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(f)1. The Department of Education shall provide or arrange for training and technical assistance to charter schools in developing and adjusting business plans and accounting for costs and income. Training and technical assistance shall also address, at a minimum, state and federal grant and student performance accountability reporting requirements and provide assistance in identifying and applying for the types and amounts of state and federal financial assistance the charter school may be eligible to receive. The department may provide other technical assistance to an applicant upon written request.

2. A charter school applicant must participate in the training provided by the Department of Education after approval of an application but at least 30 calendar days before the first day of classes at the charter school. However, a sponsor may
require the charter school applicant to attend training provided
by the sponsor in lieu of the department’s training if the
sponsor’s training standards meet or exceed the standards
developed by the department. In such case, the sponsor may not
require the charter school applicant to attend the training
within 30 calendar days before the first day of classes at the
charter school. The training must include instruction in
accurate financial planning and good business practices. If the
applicant is a management company or a nonprofit organization,
the charter school principal and the chief financial officer or
his or her equivalent must also participate in the training. A
sponsor may not require a high-performing charter school or
high-performing charter school system applicant to participate
in the training described in this subparagraph more than once.

(g) In considering charter applications for a lab school, a
state university shall consult with the district school board of
the county in which the lab school is located. The decision of a
state university may be appealed pursuant to the procedure
established in this subsection.

(9) CHARTER SCHOOL REQUIREMENTS.—

(r) If a sponsor chooses not to renew or to terminate a
charter pursuant to paragraphs (8)(a) or (8)(c), or if a charter
school voluntarily closes before the end of a school year or
within 1 year after beginning operations, excluding charter
schools that close due to consolidation with another charter
school, the applicant for the charter, the charter school owner,
president, superintendent, principal, charter school governing
board members, and the relatives of such applicant, owner,
president, superintendent, principal, or governing board member
may not submit an application to open a charter school in this state pursuant to subsection (6) for a period of 5 years after the charter is not renewed or is terminated, or the charter school closes pursuant to this paragraph. If a charter school applicant, owner, president, superintendent, principal, or a member of a charter school governing board, a charter management organization, or an education management organization is convicted of a crime, including, but not limited to, fraud or financial offenses related to the operation of a charter school, such applicant, owner, president, superintendent, principal, or governing board member, including any relatives of such individuals, or the charter management organization or the education management organization, may not apply for a charter pursuant to subsection (6) or operate or manage a charter school in this state for a period of 10 years after such conviction. For the purpose of this paragraph, the term “relative” has the same meaning as specified under subparagraph (24)(a)2.

Section 2. This act shall take effect July 1, 2019.