

1 A bill to be entitled
2 An act relating to charter schools; amending s.
3 1002.33, F.S.; revising requirements for the charter
4 school application process; requiring certain charter
5 school personnel to inform school districts of certain
6 screenings; requiring school districts to verify the
7 results of certain screenings with the Department of
8 Education using a specified system; prohibiting school
9 districts from charging a fee for such verifications;
10 requiring the department to participate in a specified
11 clearinghouse; requiring the department to verify the
12 results of certain screenings; providing the
13 rescreening schedule for charter school personnel;
14 authorizing certain assets of specified charter
15 schools to be used for certain other charter schools
16 across the state; amending s. 1002.331, F.S.; revising
17 provisions relating to the opening of additional high-
18 performing charter schools; providing applicability;
19 amending s. 1002.45, F.S.; authorizing a virtual
20 charter school to provide part-time virtual
21 instruction and be an approved provider; authorizing a
22 virtual charter school to contract, rather than enter
23 into an agreement with, a public or charter school for
24 specified purposes; providing an effective date.
25

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

27 |
 28 | Section 1. Paragraph (b) of subsection (5), paragraph (b)
 29 | of subsection (6), paragraph (g) of subsection (12), and
 30 | paragraph (b) of subsection (17) of section 1002.33, Florida
 31 | Statutes, are amended to read:

32 | 1002.33 Charter schools.—

33 | (5) SPONSOR; DUTIES.—

34 | (b) Sponsor duties.—

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

38 | b. The sponsor shall monitor the revenues and expenditures
 39 | of the charter school and perform the duties provided in s.
 40 | 1002.345.

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

45 | d. The sponsor shall not apply its policies to a charter
 46 | school unless mutually agreed to by both the sponsor and the
 47 | charter school. If the sponsor subsequently amends any agreed-
 48 | upon sponsor policy, the version of the policy in effect at the
 49 | time of the execution of the charter, or any subsequent
 50 | modification thereof, shall remain in effect and the sponsor may

51 not hold the charter school responsible for any provision of a
52 newly revised policy until the revised policy is mutually agreed
53 upon.

54 e. The sponsor shall ensure that the charter is innovative
55 and consistent with the state education goals established by s.
56 1000.03(5).

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

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

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

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

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

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

76 | by the department.

77 | (I) The report shall include the following information:

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

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

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

84 | (D) The date each final contract was executed.

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

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

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

95 | 3. This paragraph does not waive a district school board's
 96 | sovereign immunity.

97 | 4. A Florida College System institution may work with the
 98 | school district or school districts in its designated service
 99 | area to develop charter schools that offer secondary education.
 100 | These charter schools must include an option for students to

101 receive an associate degree upon high school graduation. If a
102 Florida College System institution operates an approved teacher
103 preparation program under s. 1004.04 or s. 1004.85, the
104 institution may operate no more than one charter school that
105 serves students in kindergarten through grade 12. In
106 kindergarten through grade 8, the charter school shall implement
107 innovative blended learning instructional models in which, for a
108 given course, a student learns in part through online delivery
109 of content and instruction with some element of student control
110 over time, place, path, or pace and in part at a supervised
111 brick-and-mortar location away from home. A student in a blended
112 learning course must be a full-time student of the charter
113 school and receive the online instruction in a classroom setting
114 at the charter school. District school boards shall cooperate
115 with and assist the Florida College System institution on the
116 charter application. Florida College System institution
117 applications for charter schools are not subject to the time
118 deadlines outlined in subsection (6) and may be approved by the
119 district school board at any time during the year. Florida
120 College System institutions may not report FTE for any students
121 who receive FTE funding through the Florida Education Finance
122 Program.

123 5. A school district may enter into nonexclusive
124 interlocal agreements with federal and state agencies, counties,
125 municipalities, and other governmental entities that operate

126 within the geographical borders of the school district to act on
127 behalf of such governmental entities in the inspection,
128 issuance, and other necessary activities for all necessary
129 permits, licenses, and other permissions that a charter school
130 needs in order for development, construction, or operation. A
131 charter school may use, but may not be required to use, a school
132 district for these services. The interlocal agreement must
133 include, but need not be limited to, the identification of fees
134 that charter schools will be charged for such services. The fees
135 must consist of the governmental entity's fees plus a fee for
136 the school district to recover no more than actual costs for
137 providing such services. These services and fees are not
138 included within the services to be provided pursuant to
139 subsection (20).

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

142 (b) A sponsor shall receive and review all applications
143 for a charter school using the evaluation instrument developed
144 by the Department of Education. A sponsor shall receive and
145 consider charter school applications received during ~~on or~~
146 ~~before August 1~~ of each calendar year for charter schools to be
147 opened at the beginning of the school district's next school
148 year, or to be opened at a time determined ~~agreed to~~ by the
149 applicant ~~and the sponsor~~. A sponsor may not refuse to receive a
150 charter school application submitted by an applicant during the

151 calendar year ~~before August 1 and may receive an application~~
152 ~~submitted later than August 1 if it chooses. Beginning in 2018~~
153 ~~and thereafter, a sponsor shall receive and consider charter~~
154 ~~school applications received on or before February 1 of each~~
155 ~~calendar year for charter schools to be opened 18 months later~~
156 ~~at the beginning of the school district's school year, or to be~~
157 ~~opened at a time determined by the applicant. A sponsor may not~~
158 ~~refuse to receive a charter school application submitted before~~
159 ~~February 1 and may receive an application submitted later than~~
160 ~~February 1 if it chooses. A sponsor may not charge an applicant~~
161 ~~for a charter any fee for the processing or consideration of an~~
162 ~~application, and a sponsor may not base its consideration or~~
163 ~~approval of a final application upon the promise of future~~
164 ~~payment of any kind. Before approving or denying any~~
165 ~~application, the sponsor shall allow the applicant, upon receipt~~
166 ~~of written notification, at least 7 calendar days to make~~
167 ~~technical or nonsubstantive corrections and clarifications,~~
168 ~~including, but not limited to, corrections of grammatical,~~
169 ~~typographical, and like errors or missing signatures, if such~~
170 ~~errors are identified by the sponsor as cause to deny the final~~
171 ~~application.~~

172 1. In order to facilitate an accurate budget projection
173 process, a sponsor shall be held harmless for FTE students who
174 are not included in the FTE projection due to approval of
175 charter school applications after the FTE projection deadline.

176 In a further effort to facilitate an accurate budget projection,
177 within 15 calendar days after receipt of a charter school
178 application, a sponsor shall report to the Department of
179 Education the name of the applicant entity, the proposed charter
180 school location, and its projected FTE.

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

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

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

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

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

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

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

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

222
223 Material noncompliance is a failure to follow requirements or a
224 violation of prohibitions applicable to charter school
225 applications, which failure is quantitatively or qualitatively

226 significant either individually or when aggregated with other
227 noncompliance. An applicant is considered to be replicating a
228 high-performing charter school if the proposed school is
229 substantially similar to at least one of the applicant's high-
230 performing charter schools and the organization or individuals
231 involved in the establishment and operation of the proposed
232 school are significantly involved in the operation of replicated
233 schools.

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

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

249 5. Upon approval of an application, the initial startup
250 shall commence with the beginning of the public school calendar

251 for the district in which the charter is granted. A charter
252 school may defer the opening of the school's operations for up
253 to 3 years to provide time for adequate facility planning. The
254 charter school must provide written notice of such intent to the
255 sponsor and the parents of enrolled students at least 30
256 calendar days before the first day of school.

257 (12) EMPLOYEES OF CHARTER SCHOOLS.—

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

263 a. If a charter school employee or governing board member
264 who is subject to background screening under this paragraph has
265 completed such screening in another school district in the last
266 5 years, he or she shall inform the sponsoring school district
267 of such fact. The sponsoring school district shall verify the
268 results of the background screening with the department using
269 the shared system described in sub-subparagraph b. The
270 sponsoring school district may not charge a fee for verifying
271 the results of a charter school employee's or governing board
272 member's background screening.

273 b. The department is a qualified entity for purposes of s.
274 943.0542 when fulfilling its duties under this paragraph and
275 shall participate in the clearinghouse created under s. 435.12.

276 The department shall use the clearinghouse to verify the results
277 of a charter school employee's or governing board member's
278 background screening for a school district. Notwithstanding any
279 other provision of law, the rescreening schedule of charter
280 school employees or governing board members, without regard to
281 whether the previous screening was conducted by the department
282 or a school district, shall be:

283 I. Persons who serve in more than one county and submit
284 fingerprints for rescreening after July 1, 2020, and persons for
285 whom the last screening was conducted on or before December 31,
286 2014, by December 31, 2020.

287 II. Persons for whom the last screening was conducted
288 between January 1, 2015, and December 31, 2016, by December 31,
289 2021.

290 III. Persons for whom the last screening was conducted
291 between January 1, 2017, and December 31, 2018, by December 31,
292 2022.

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

298 3. The governing board of a charter school shall adopt
299 policies establishing standards of ethical conduct for
300 instructional personnel and school administrators. The policies

301 must require all instructional personnel and school
302 administrators, as defined in s. 1012.01, to complete training
303 on the standards; establish the duty of instructional personnel
304 and school administrators to report, and procedures for
305 reporting, alleged misconduct by other instructional personnel
306 and school administrators which affects the health, safety, or
307 welfare of a student; and include an explanation of the
308 liability protections provided under ss. 39.203 and 768.095. A
309 charter school, or any of its employees, may not enter into a
310 confidentiality agreement regarding terminated or dismissed
311 instructional personnel or school administrators, or personnel
312 or administrators who resign in lieu of termination, based in
313 whole or in part on misconduct that affects the health, safety,
314 or welfare of a student, and may not provide instructional
315 personnel or school administrators with employment references or
316 discuss the personnel's or administrators' performance with
317 prospective employers in another educational setting, without
318 disclosing the personnel's or administrators' misconduct. Any
319 part of an agreement or contract that has the purpose or effect
320 of concealing misconduct by instructional personnel or school
321 administrators which affects the health, safety, or welfare of a
322 student is void, is contrary to public policy, and may not be
323 enforced.

324 4. Before employing instructional personnel or school
325 administrators in any position that requires direct contact with

326 students, a charter school shall conduct employment history
327 checks of each of the personnel's or administrators' previous
328 employers, screen the instructional personnel or school
329 administrators through use of the educator screening tools
330 described in s. 1001.10(5), and document the findings. If unable
331 to contact a previous employer, the charter school must document
332 efforts to contact the employer.

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

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

341 (b) The basis for the agreement for funding students
342 enrolled in a charter school shall be the sum of the school
343 district's operating funds from the Florida Education Finance
344 Program as provided in s. 1011.62 and the General Appropriations
345 Act, including gross state and local funds, discretionary
346 lottery funds, and funds from the school district's current
347 operating discretionary millage levy; divided by total funded
348 weighted full-time equivalent students in the school district;
349 multiplied by the weighted full-time equivalent students for the
350 charter school. Charter schools whose students or programs meet

351 the eligibility criteria in law are entitled to their
352 proportionate share of categorical program funds included in the
353 total funds available in the Florida Education Finance Program
354 by the Legislature, including transportation, the research-based
355 reading allocation, and the Florida digital classrooms
356 allocation. Total funding for each charter school shall be
357 recalculated during the year to reflect the revised calculations
358 under the Florida Education Finance Program by the state and the
359 actual weighted full-time equivalent students reported by the
360 charter school during the full-time equivalent student survey
361 periods designated by the Commissioner of Education. For charter
362 schools operated by a not-for-profit or municipal entity, any
363 unrestricted current and capital assets identified in the
364 charter school's annual financial audit may be used for other
365 charter schools operated by the not-for-profit or municipal
366 entity within the state ~~school district~~. Unrestricted current
367 assets shall be used in accordance with s. 1011.62, and any
368 unrestricted capital assets shall be used in accordance with s.
369 1013.62 (2).

370 Section 2. Paragraph (b) of subsection (3) of section
371 1002.331, Florida Statutes, is amended to read:

372 1002.331 High-performing charter schools.—

373 (3)

374 (b) A high-performing charter school may submit ~~not~~
375 ~~establish more than two~~ applications for a charter school

376 ~~schools~~ within the state under paragraph (a) to be opened at a
377 time determined by the high-performing charter school in any
378 ~~year~~. A subsequent application to establish a charter school
379 under paragraph (a) may not be submitted unless each charter
380 school application commences operations or an application is
381 otherwise withdrawn ~~established in this manner achieves high-~~
382 ~~performing charter school status~~. However, a high-performing
383 charter school may establish more than one charter school within
384 the state under paragraph (a) in any year if it operates in the
385 area of a persistently low-performing school and serves students
386 from that school. This paragraph applies to any high-performing
387 charter school with an existing approved application on or after
388 July 1, 2020.

389 Section 3. Paragraph (d) of subsection (1) of section
390 1002.45, Florida Statutes, is amended to read:

391 1002.45 Virtual instruction programs.—

392 (1) PROGRAM.—

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

398 1. Contract with the Florida Virtual School.

399 2. Contract with or be an approved provider under
400 subsection (2).

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401 3. Contract with any public school or charter school ~~Enter~~
402 ~~into an agreement with a school district~~ to allow the
403 participation of the virtual charter school's students in
404 courses that the virtual school is unable to provide ~~the school~~
405 ~~district's virtual instruction program~~. The agreement must
406 indicate a process for reporting of student enrollment and the
407 transfer of funds required by paragraph (7) (e).

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