

By the Committee on Education; and Senator Diaz

581-01343-22

2022758c1

1 A bill to be entitled
2 An act relating to education; creating s. 1002.3301,
3 F.S.; establishing the Charter School Review
4 Commission within the Department of Education;
5 providing the purpose of the commission; specifying
6 membership of the commission and the duration of
7 members' terms; requiring the Commissioner of
8 Education to appoint members; providing that a
9 majority of the commission members constitutes a
10 quorum; providing that the commission has the same
11 powers and duties as sponsors do in reviewing and
12 approving charter schools; designating the district
13 school board where a proposed charter school will be
14 located as the school's sponsor and supervisor;
15 requiring a district school board to take specified
16 actions within a certain timeframe regarding the
17 commission's granting of a charter school application;
18 providing for the appeal of commission decisions;
19 amending s. 1002.33, F.S.; providing legislative
20 intent; authorizing the commission to solicit and
21 review charter school applications; requiring that the
22 district school board that oversees the school
23 district where a charter school approved by the
24 commission will be located shall serve as the charter
25 school's sponsor; prohibiting sponsors from imposing
26 additional reporting requirements on a charter school
27 so long as the charter school meets specified
28 requirements; revising the terms and conditions for
29 charter renewal; revising the procedure and causes for

581-01343-22

2022758c1

30 nonrenewal or termination of a charter; providing that
31 any facility may provide space to charter schools
32 under its existing zoning and land use designations
33 without obtaining a special exception, rezoning, or a
34 land use change; requiring that educational impact
35 fees required to be paid in connection with new
36 residential dwelling units be designated instead for
37 the construction of charter school facilities;
38 requiring the Office of Program Policy Analysis and
39 Government Accountability to conduct an analysis of
40 charter school capital outlay and submit a report to
41 the Governor and the Legislature by a specified date;
42 providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Section 1002.3301, Florida Statutes, is created
47 to read:

48 1002.3301 Charter School Review Commission.—The Charter
49 School Review Commission is created within the Department of
50 Education to review and approve applications for charter schools
51 overseen by district school boards.

52 (1) The commission shall consist of seven members who have
53 charter school experience, selected by the Commissioner of
54 Education and subject to confirmation by the Senate. The
55 commissioner shall designate one member as the chair. Each
56 member shall be appointed to a 4-year term. However, for the
57 purpose of achieving staggered terms, of the initial
58 appointments, three members shall be appointed to 2-year terms

581-01343-22

2022758c1

59 and four members shall be appointed to 4-year terms. All
60 subsequent appointments shall be for 4-year terms. A majority of
61 the members of the commission constitutes a quorum.

62 (2) The commission has the same powers and duties as
63 sponsors pursuant to s. 1002.33 in regard to reviewing and
64 approving charter schools.

65 (3) The district school board of the school district where
66 the proposed charter school will be located shall be the sponsor
67 of and supervisor for the new charter school and shall provide
68 an initial proposed charter contract to the charter school
69 pursuant to s. 1002.33(7)(b) within 30 calendar days after the
70 commission's decision granting an application.

71 (4) The decisions of the commission may be appealed in
72 accordance with s. 1002.33(6)(c).

73 Section 2. Subsection (2), paragraphs (a) and (b) of
74 subsection (5), paragraph (c) of subsection (7), paragraph (a)
75 of subsection (8), and paragraphs (c) and (f) of subsection (18)
76 of section 1002.33, Florida Statutes, are amended, to read:

77 1002.33 Charter schools.—

78 (2) GUIDING PRINCIPLES; PURPOSE; LEGISLATIVE INTENT.—

79 (a) Charter schools in Florida shall be guided by the
80 following principles:

81 1. Meet high standards of student achievement while
82 providing parents flexibility to choose among diverse
83 educational opportunities within this ~~the~~ state's public school
84 system.

85 2. Promote enhanced academic success and financial
86 efficiency by aligning responsibility with accountability.

87 3. Provide parents with sufficient information on whether

581-01343-22

2022758c1

88 their child is reading at grade level and whether the child
89 gains at least a year's worth of learning for every year spent
90 in the charter school.

91 (b) Charter schools shall fulfill the following purposes:

- 92 1. Improve student learning and academic achievement.
- 93 2. Increase learning opportunities for all students, with
94 special emphasis on low-performing students and reading.
- 95 3. Encourage the use of innovative learning methods.
- 96 4. Require the measurement of learning outcomes.

97 (c) Charter schools may fulfill the following purposes:

- 98 1. Create innovative measurement tools.
- 99 2. Provide rigorous competition within the public school
100 system to stimulate continual improvement in all public schools.
- 101 3. Expand the capacity of the public school system.
- 102 4. Mitigate the educational impact created by the
103 development of new residential dwelling units.
- 104 5. Create new professional opportunities for teachers,
105 including ownership of the learning program at the school site.

106 (d) It is the intent of the Legislature that charter school
107 students be considered as important as all other students in
108 this state and, to that end, comparable funding levels from
109 existing and future sources should be maintained for charter
110 school students.

111 (5) SPONSOR; DUTIES.—

112 (a) *Sponsoring entities.*—

113 1. A district school board may sponsor a charter school in
114 the county over which the district school board has
115 jurisdiction.

116 2. A state university may grant a charter to a lab school

581-01343-22

2022758c1

117 created under s. 1002.32 and shall be considered to be the
118 school's sponsor. Such school shall be considered a charter lab
119 school.

120 3. Because needs relating to educational capacity,
121 workforce qualifications, and career education opportunities are
122 constantly changing and extend beyond school district
123 boundaries:

124 a. A state university may, upon approval by the Department
125 of Education, solicit applications and sponsor a charter school
126 to meet regional education or workforce demands by serving
127 students from multiple school districts.

128 b. A Florida College System institution may, upon approval
129 by the Department of Education, solicit applications and sponsor
130 a charter school in any county within its service area to meet
131 workforce demands and may offer postsecondary programs leading
132 to industry certifications to eligible charter school students.
133 A charter school established under subparagraph (b)4. may not be
134 sponsored by a Florida College System institution until its
135 existing charter with the school district expires as provided
136 under subsection (7).

137 c. Notwithstanding paragraph (6)(b), a state university or
138 Florida College System institution may, at its discretion, deny
139 an application for a charter school.

140 d. The Charter School Review Commission, as authorized
141 under s. 1002.3301, may solicit and review applications for
142 charter schools overseen by district school boards, and upon the
143 commission approving an application, the district school board
144 that oversees the school district where the charter school will
145 be located shall serve as sponsor.

581-01343-22

2022758c1

146 (b) *Sponsor duties.*—

147 1.a. The sponsor shall monitor and review the charter
148 school in its progress toward the goals established in the
149 charter.

150 b. The sponsor shall monitor the revenues and expenditures
151 of the charter school and perform the duties provided in s.
152 1002.345.

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

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

166 e. The sponsor shall ensure that the charter is innovative
167 and consistent with the state education goals established by s.
168 1000.03(5).

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

174 g. The sponsor is ~~shall~~ not be liable for civil damages

581-01343-22

2022758c1

175 under state law for personal injury, property damage, or death
176 resulting from an act or omission of an officer, employee,
177 agent, or governing body of the charter school.

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

181 i. The sponsor's duties to monitor the charter school do
182 ~~shall~~ not constitute the basis for a private cause of action.

183 j. The sponsor may ~~shall~~ not impose additional reporting
184 requirements on a charter school as long as the charter school
185 has not been identified as having a deteriorating financial
186 condition or financial emergency pursuant to s. 1002.345 ~~without~~
187 ~~providing reasonable and specific justification in writing to~~
188 ~~the charter school.~~

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

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

193 (A) The number of applications received during the school
194 year and up to August 1 and each applicant's contact
195 information.

196 (B) The date each application was approved, denied, or
197 withdrawn.

198 (C) The date each final contract was executed.

199 (II) Annually, by November 1, the sponsor shall submit to
200 the department the information for the applications submitted
201 the previous year.

202 (III) The department shall compile an annual report, by
203 sponsor, and post the report on its website by January 15 of

581-01343-22

2022758c1

204 each year.

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

209 3. This paragraph does not waive a sponsor's sovereign
210 immunity.

211 4. A Florida College System institution may work with the
212 school district or school districts in its designated service
213 area to develop charter schools that offer secondary education.
214 These charter schools must include an option for students to
215 receive an associate degree upon high school graduation. If a
216 Florida College System institution operates an approved teacher
217 preparation program under s. 1004.04 or s. 1004.85, the
218 institution may operate charter schools that serve students in
219 kindergarten through grade 12 in any school district within the
220 service area of the institution. District school boards shall
221 cooperate with and assist the Florida College System institution
222 on the charter application. Florida College System institution
223 applications for charter schools are not subject to the time
224 deadlines outlined in subsection (6) and may be approved by the
225 district school board at any time during the year. Florida
226 College System institutions may not report FTE for any students
227 participating under this subparagraph who receive FTE funding
228 through the Florida Education Finance Program.

229 5. For purposes of assisting the development of a charter
230 school, a school district may enter into nonexclusive interlocal
231 agreements with federal and state agencies, counties,
232 municipalities, and other governmental entities that operate

581-01343-22

2022758c1

233 within the geographical borders of the school district to act on
234 behalf of such governmental entities in the inspection,
235 issuance, and other necessary activities for all necessary
236 permits, licenses, and other permissions that a charter school
237 needs in order for development, construction, or operation. A
238 charter school may use, but may not be required to use, a school
239 district for these services. The interlocal agreement must
240 include, but need not be limited to, the identification of fees
241 that charter schools will be charged for such services. The fees
242 must consist of the governmental entity's fees plus a fee for
243 the school district to recover no more than actual costs for
244 providing such services. These services and fees are not
245 included within the services to be provided pursuant to
246 subsection (20). Notwithstanding any other provision of law, an
247 interlocal agreement between a school district and a federal or
248 state agency, county, municipality, or other governmental entity
249 which prohibits or limits the creation of a charter school
250 within the geographic borders of the school district is void and
251 unenforceable.

252 6. The board of trustees of a sponsoring state university
253 or Florida College System institution under paragraph (a) is the
254 local educational agency for all charter schools it sponsors for
255 purposes of receiving federal funds and accepts full
256 responsibility for all local educational agency requirements and
257 the schools for which it will perform local educational agency
258 responsibilities. A student enrolled in a charter school that is
259 sponsored by a state university or Florida College System
260 institution may not be included in the calculation of the school
261 district's grade under s. 1008.34(5) for the school district in

581-01343-22

2022758c1

262 which he or she resides.

263 (7) CHARTER.—The terms and conditions for the operation of
264 a charter school shall be set forth by the sponsor and the
265 applicant in a written contractual agreement, called a charter.
266 The sponsor and the governing board of the charter school shall
267 use the standard charter contract pursuant to subsection (21),
268 which shall incorporate the approved application and any addenda
269 approved with the application. Any term or condition of a
270 proposed charter contract that differs from the standard charter
271 contract adopted by rule of the State Board of Education shall
272 be presumed a limitation on charter school flexibility. The
273 sponsor may not impose unreasonable rules or regulations that
274 violate the intent of giving charter schools greater flexibility
275 to meet educational goals. The charter shall be signed by the
276 governing board of the charter school and the sponsor, following
277 a public hearing to ensure community input.

278 (c)1. A charter may be renewed provided that a program
279 review demonstrates that the criteria in paragraph (a) have been
280 successfully accomplished and that none of the grounds for
281 nonrenewal established by paragraph (8) (a) has been expressly
282 found documented. The charter of a charter school that meets
283 these requirements and has received a school grade lower than a
284 “B” pursuant to s. 1008.34 in the most recently graded school
285 year must be renewed for no less than a 5-year term except as
286 provided in paragraph (9) (n). In order to facilitate long-term
287 financing for charter school construction, charter schools
288 operating for a minimum of 3 years and demonstrating exemplary
289 academic programming and fiscal management are eligible for a
290 15-year charter renewal. Such long-term charter is subject to

581-01343-22

2022758c1

291 annual review and may be terminated during the term of the
292 charter.

293 2. The 15-year charter renewal that may be granted pursuant
294 to subparagraph 1. must ~~shall~~ be granted to a charter school
295 that has received a school grade of "A" or "B" pursuant to s.
296 1008.34 in the most recently graded school year ~~3 of the past 4~~
297 ~~years~~ and that is not in a state of financial emergency or
298 deficit position as defined by this section. Such long-term
299 charter is subject to annual review and may be terminated during
300 the term of the charter pursuant to subsection (8).

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

302 (a) The sponsor shall make student academic achievement for
303 all students the most important factor when determining whether
304 to renew or terminate the charter. The sponsor may ~~also~~ choose
305 not to renew or may terminate the charter only if the sponsor
306 expressly finds that one of the grounds set forth below exists
307 by clear and convincing evidence:

308 1. Failure to participate in the state's education
309 accountability system created in s. 1008.31, as required in this
310 section, or failure to meet the requirements for student
311 performance stated in the charter.

312 2. Failure to meet generally accepted standards of fiscal
313 management due to deteriorating financial conditions or
314 financial emergencies determined pursuant to s. 1002.345.

315 3. Material violation of law.

316 ~~4. Other good cause shown.~~

317 (18) FACILITIES.—

318 (c) Any facility, or portion thereof, used to house a
319 charter school whose charter has been approved by the sponsor

581-01343-22

2022758c1

320 and the governing board, pursuant to subsection (7), ~~is shall be~~
321 exempt from ad valorem taxes pursuant to s. 196.1983 and-.
322 ~~Library, community service, museum, performing arts, theatre,~~
323 ~~cinema, church, Florida College System institution, college, and~~
324 ~~university facilities~~ may provide space to charter schools
325 ~~within their facilities~~ under the facility's existing ~~their~~
326 ~~preexisting~~ zoning and land use designations without obtaining a
327 special exception, rezoning, or a land use change.

328 (f) To the extent that charter school facilities are
329 specifically created to mitigate the educational impact created
330 by the development of new residential dwelling units, pursuant
331 to subparagraph (2)(c)4., ~~some of or~~ all of the educational
332 impact fees required to be paid in connection with the new
333 residential dwelling units must ~~may~~ be designated instead for
334 the construction of the charter school facilities that will
335 mitigate the student station impact. Such facilities shall be
336 built to the State Requirements for Educational Facilities and
337 shall be owned by a public or nonprofit entity. The local school
338 district retains the right to monitor and inspect such
339 facilities to ensure compliance with the State Requirements for
340 Educational Facilities. If a facility ceases to be used for
341 public educational purposes, either the facility shall revert to
342 the school district subject to any debt owed on the facility, or
343 the owner of the facility shall have the option to refund all
344 educational impact fees utilized for the facility to the school
345 district. The district and the owner of the facility may
346 contractually agree to another arrangement for the facilities if
347 the facilities cease to be used for educational purposes. The
348 owner of property planned or approved for new residential

581-01343-22

2022758c1

349 dwelling units and the entity levying educational impact fees
350 shall enter into an agreement that designates the educational
351 impact fees that will be allocated for the charter school
352 student stations and that ensures the timely construction of the
353 charter school student stations concurrent with the expected
354 occupancy of the residential units. The application for use of
355 educational impact fees shall include an approved charter school
356 application. To assist the school district in forecasting
357 student station needs, the entity levying the impact fees shall
358 notify the affected district of any agreements it has approved
359 for the purpose of mitigating student station impact from the
360 new residential dwelling units.

361 Section 3. (1) The Office of Program Policy Analysis and
362 Government Accountability shall conduct an analysis of the
363 current methodologies for the distribution of capital outlay
364 funds to charter schools. Based on its analysis, the office
365 shall recommend any changes to provide an equitable allocation
366 of capital outlay funds for all public schools. The analysis
367 must include, at a minimum:

368 (a) An analysis of the calculation methodology for the
369 allocation of state funds appropriated in the General
370 Appropriations Act under s. 1013.62(2), Florida Statutes.

371 (b) An analysis of the calculation methodology to determine
372 the amount of revenue that a school district must distribute to
373 a charter school under s. 1013.62(3), Florida Statutes.

374 (c) For the most recent three years, a comparison of the
375 charter school capital outlay amounts between the allocation of
376 state funds and revenue that would result from the discretionary
377 millage authorized under s. 1011.71(2), Florida Statutes.

581-01343-22

2022758c1

378 (d) Other state policies and methodologies for the
379 distribution of charter school capital outlay funds.

380 (2) The office shall submit a report of its findings and
381 recommendations to the Governor, the President of the Senate,
382 and the Speaker of the House of Representatives by January 1,
383 2023.

384 Section 4. This act shall take effect July 1, 2022.