

By Senator Peaden

1-1184-01

1 A bill to be entitled
2 An act relating to charter schools; amending s.
3 228.056, F.S.; providing requirements for
4 conversion to charter schools; establishing new
5 purposes for charter schools; prohibiting a
6 sponsor from charging an application fee;
7 removing a school board's ability to refuse to
8 follow the recommendation of the State Board of
9 Education for good cause in cases of
10 charter-school appeals; removing the limit on
11 the number of charters a school district may
12 issue; permitting a charter school to admit
13 students on the basis of artistic, academic, or
14 other standards; revising requirements
15 regarding the capacity of the charter school;
16 granting a charter school's governing board the
17 right to appeal a school board's decision to
18 terminate a charter school; changing the
19 procedure for granting a charter school an
20 exemption from statutory provisions; revising
21 the requirements for the staff of a charter
22 school; revising procedures relating to the
23 administrative fee charged by a school
24 district; revising requirements for a charter
25 school in the workplace; amending s. 228.0561,
26 F.S.; revising procedures relating to funding
27 for charter-school facilities; providing an
28 effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 228.056, Florida Statutes, is
2 amended to read:

3 228.056 Charter schools.--

4 (1) AUTHORIZATION.--The creation of charter schools is
5 hereby authorized. Charter schools shall be part of the
6 state's program of public education. All charter schools in
7 Florida are fully recognized as public schools. A charter
8 school may be formed by creating a new school or converting an
9 existing public school to charter status. A public school must
10 have been in operation for a minimum of 2 academic years
11 before applying for charter status. A public school may not
12 use the term charter in its name unless it has been approved
13 under this section.

14 (2) PURPOSE.--The purpose of charter schools shall be
15 to:

16 (a) Improve student learning.

17 (b) Increase learning opportunities for all students,
18 with special emphasis on expanded learning experiences for
19 students who are identified as academically low achieving.

20 (c) Encourage the use of different and innovative
21 learning methods.

22 (d) Increase choice of learning opportunities for
23 students.

24 (e) Establish a new form of accountability for
25 schools.

26 (f) Require the measurement of learning outcomes and
27 create innovative measurement tools.

28 (g) Make the school the unit for improvement.

29 (h) Create new professional opportunities for
30 teachers, including the opportunity to own the learning
31 program at the school site.

1 (i) Provide vigorous competition within the public
2 school district to stimulate continual improvement in all
3 public schools.

4 (j) Provide additional academic choices for parents
5 and students.

6 (k) Expand the capacity of the public school system.

7 (3) APPLICATION; UNLAWFUL REPRISAL.--

8 (a) An application for a new charter school may be
9 made by an individual, teachers, parents, a group of
10 individuals, a municipality, or a legal entity organized under
11 the laws of this state. The district school board or the
12 principal, teachers, parents, and/or the school advisory
13 council at an existing public school, including a public
14 school-within-a-school that is designated as a school by the
15 district school board, shall submit any application for
16 converting the school to a charter school. An application
17 submitted proposing to convert an existing public school to a
18 charter school shall demonstrate the support of at least 50
19 percent of the teachers employed at the school and 50 percent
20 of the parents voting whose children are enrolled at the
21 school, provided that a majority of the parents eligible to
22 vote participate in the ballot process, according to
23 procedures established by rules of the state board. A private
24 school, parochial school, or home education program shall not
25 be eligible for charter school status.

26 (b) No district school board, or district school board
27 employee who has control over personnel actions, shall take
28 unlawful reprisal against another district school board
29 employee because that employee is either directly or
30 indirectly involved with an application to establish a charter
31 school. As used in this subsection, the term "unlawful

1 reprisal" means an action taken by a district school board or
2 a school system employee against an employee who is directly
3 or indirectly involved in a lawful application to establish a
4 charter school, which occurs as a direct result of that
5 involvement, and which results in one or more of the
6 following: disciplinary or corrective action; adverse transfer
7 or reassignment, whether temporary or permanent; suspension,
8 demotion, or dismissal; an unfavorable performance evaluation;
9 a reduction in pay, benefits, or rewards; elimination of the
10 employee's position absent of a reduction in force as a result
11 of lack of moneys or work; or other adverse significant
12 changes in duties or responsibilities that are inconsistent
13 with the employee's salary or employment classification. The
14 following procedures shall apply to an alleged unlawful
15 reprisal which occurs as a consequence of an employee's direct
16 or indirect involvement with an application to establish a
17 charter school:

18 1. Within 60 days after a reprisal prohibited by this
19 subsection, an employee may file a complaint with the
20 Department of Education.

21 2. Within 3 working days after receiving a complaint
22 under this section, the department shall acknowledge receipt
23 of the complaint and provide copies of the complaint and any
24 other relevant preliminary information available to each of
25 the other parties named in the complaint, which parties shall
26 each acknowledge receipt of such copies to the complainant.

27 3. If the department determines that the complaint
28 demonstrates reasonable cause to suspect that an unlawful
29 reprisal has occurred, the department shall conduct an
30 investigation to produce a fact-finding report.

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1 4. Within 90 days after receiving the complaint, the
2 department shall provide the superintendent of schools of the
3 complainant's district and the complainant with a fact-finding
4 report that may include recommendations to the parties or
5 proposed resolution of the complaint. The fact-finding report
6 shall be presumed admissible in any subsequent or related
7 administrative or judicial review.

8 5. If the department determines that reasonable
9 grounds exist to believe that an unlawful reprisal has
10 occurred, is occurring, or is to be taken, and is unable to
11 conciliate a complaint within 60 days after receipt of the
12 fact-finding report, the department shall terminate the
13 investigation. Upon termination of any investigation, the
14 department shall notify the complainant and the superintendent
15 of schools of the termination of the investigation, providing
16 a summary of relevant facts found during the investigation and
17 the reasons for terminating the investigation. A written
18 statement under this paragraph is presumed admissible as
19 evidence in any judicial or administrative proceeding.

20 6. The department shall either contract with the
21 Division of Administrative Hearings under s. 120.65, or
22 otherwise provide for a complaint for which the department
23 determines reasonable grounds exist to believe that an
24 unlawful reprisal has occurred, is occurring, or is to be
25 taken, and is unable to conciliate, to be heard by a panel of
26 impartial persons. Upon hearing the complaint, the panel must
27 make findings of fact and conclusions of law for a final
28 decision by the department.

29
30 It shall be an affirmative defense to any action brought
31 pursuant to this section that the adverse action was

1 predicated upon grounds other than, and would have been taken
2 absent, the employee's exercise of rights protected by this
3 section.

4 (c) In any action brought under this section for which
5 it is determined reasonable grounds exist to believe that an
6 unlawful reprisal has occurred, is occurring, or is to be
7 taken, the relief must include the following:

8 1. Reinstatement of the employee to the same position
9 held before the unlawful reprisal was commenced, or to an
10 equivalent position, or payment of reasonable front pay as
11 alternative relief.

12 2. Reinstatement of the employee's full fringe
13 benefits and seniority rights, as appropriate.

14 3. Compensation, if appropriate, for lost wages,
15 benefits, or other lost remuneration caused by the unlawful
16 reprisal.

17 4. Payment of reasonable costs, including attorney's
18 fees, to a substantially prevailing employee, or to the
19 prevailing employer if the employee filed a frivolous action
20 in bad faith.

21 5. Issuance of an injunction, if appropriate, by a
22 court of competent jurisdiction.

23 6. Temporary reinstatement to the employee's former
24 position or to an equivalent position, pending the final
25 outcome on the complaint, if it is determined that the action
26 was not made in bad faith or for a wrongful purpose, and did
27 not occur after a district school board's initiation of a
28 personnel action against the employee which includes
29 documentation of the employee's violation of a disciplinary
30 standard or performance deficiency.

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1 (4) SPONSOR.--A district school board may sponsor a
2 charter school in the county over which the board has
3 jurisdiction.

4 (a) A district school board shall receive and review
5 all applications for a charter school. A district school board
6 shall receive and consider charter school applications
7 received on or before October 1 of each calendar year for
8 charter schools to be opened at the beginning of the school
9 district's next school year, or to be opened at a time agreed
10 to by the applicant and the district school board. A district
11 school board may receive applications later than this date if
12 it chooses. A sponsor may not charge an applicant for a
13 charter any fee for the consideration of an application, and a
14 sponsor may not base its consideration of an application upon
15 the promise of future payment of any kind.In order to
16 facilitate an accurate budget projection process, a district
17 school board shall be held harmless for FTE students which are
18 not included in the FTE projection due to approval of charter
19 school applications after the FTE projection deadline. In a
20 further effort to facilitate an accurate budget projection,
21 within 15 calendar days after receipt of a charter school
22 application, a district school board or other sponsor shall
23 report to the Department of Education the name of the
24 applicant entity, the proposed charter school location, and
25 its projected FTE. A district school board must by a majority
26 vote approve or deny an application no later than 60 calendar
27 days after the application is received, unless the district
28 school board and the applicant mutually agree to temporarily
29 postpone the vote to a specific date, at which time the
30 district school board must by a majority vote approve or deny
31 the application. If the district school board fails to act on

1 the application, an applicant may appeal to the State Board of
2 Education as provided in paragraph (b). If an application is
3 denied, the district school board must, within 10 calendar
4 days, articulate in writing the specific reasons based upon
5 good cause supporting its denial of the charter application.
6 For budget projection purposes, the district school board or
7 other sponsor shall report to the department the approval or
8 denial of a charter application within 10 calendar days after
9 such approval or denial. In the event of approval, the report
10 to the department must include the final projected FTE for the
11 approved charter school. Upon approval of a charter
12 application, the initial startup must be consistent with the
13 beginning of the public school calendar for the district in
14 which the charter is granted unless the district school board
15 allows a waiver of this provision for good cause.

16 (b) An applicant may appeal any denial of that
17 applicant's application or failure to act on an application to
18 the State Board of Education no later than 30 calendar days
19 after receipt of the district school board's decision or
20 failure to act and shall notify the district school board of
21 its appeal. Any response of the school board shall be
22 submitted to the state board within 30 calendar days after
23 notification of the appeal. The state board must by majority
24 vote accept or reject the decision of the district school
25 board no later than 60 calendar days after an appeal is filed
26 in accordance with state board rule. The state board may
27 reject an appeal submission for failure to comply with
28 procedural rules governing the appeals process. The rejection
29 shall describe the submission errors. The appellant may have
30 up to 15 calendar days from notice of rejection to resubmit an
31 appeal that meets requirements of rule. An application for

1 appeal submitted subsequent to such rejection shall be
2 considered timely if the original appeal was filed within 30
3 calendar days after receipt of the specific reasons for the
4 school board's denial of the charter application ~~the school~~
5 ~~board denial~~. The state board shall remand the application to
6 the district school board with its written recommendation that
7 the district board approve or deny the application consistent
8 with the state board's decision. The decision of the State
9 Board of Education is not subject to the provisions of the
10 Administrative Procedure Act, chapter 120.

11 (c) The district school board must act upon the
12 decision ~~recommendation~~ of the State Board of Education within
13 30 calendar days after it is received. ~~The district board may~~
14 ~~fail to act in accordance with the recommendation of the state~~
15 ~~board only for good cause. Good cause for failing to act in~~
16 ~~accordance with the state board's recommendation arises only~~
17 ~~if the district school board determines by competent~~
18 ~~substantial evidence that approving the state board's~~
19 ~~recommendation would be contrary to law or contrary to the~~
20 ~~best interests of the pupils or the community. The district~~
21 ~~school board must articulate in written findings the specific~~
22 ~~reasons based upon good cause supporting its failure to act in~~
23 ~~accordance with the state board's recommendation. The district~~
24 ~~board's action on the state board's recommendation is a final~~
25 ~~action subject to judicial review.~~

26 (d) The Department of Education may provide technical
27 assistance to an applicant upon written request.

28 (e) Paragraph (a) notwithstanding, a state university
29 may grant a charter to a developmental research school created
30 under s. 228.053. In considering such charter, the state
31 university must consult with the district school board of the

1 county in which the developmental research school is located.
2 The decision of a state university may be appealed pursuant to
3 the procedure established in this subsection.

4 (f) The terms and conditions for the operation of a
5 charter school shall be set forth by the sponsor and the
6 applicant in a written contractual agreement, called a
7 charter. The sponsor shall not impose unreasonable rules or
8 regulations that violate the intent of giving charter schools
9 greater flexibility to meet educational goals. The applicant
10 and sponsor shall have 6 months in which to mutually agree to
11 the provisions of the charter. The Department of Education
12 shall provide mediation services for any dispute regarding
13 this section subsequent to the approval of a charter
14 application and for any dispute relating to the approved
15 charter, except disputes regarding charter school application
16 denials. If the Commissioner of Education determines that the
17 dispute cannot be settled through mediation, the dispute may
18 be appealed to an administrative law judge appointed by the
19 Division of Administrative Hearings. The administrative law
20 judge may rule on issues of equitable treatment of the charter
21 school as a public school, whether proposed provisions of the
22 charter violate the intended flexibility granted charter
23 schools by statute, or on any other matter regarding this
24 section except a charter school application denial, and shall
25 award the prevailing party reasonable attorney's fees and
26 costs incurred to be paid by the losing party. The costs of
27 the administrative hearing shall be paid by the party whom the
28 administrative law judge rules against.

29 (g) The sponsor shall monitor and review the charter
30 school in its progress towards the goals established in the
31 charter.

1 (h) The sponsor shall monitor the revenues and
2 expenditures of the charter school.

3 ~~(5) NUMBER OF SCHOOLS.--~~

4 ~~(a) The number of newly created charter schools is~~
5 ~~limited to no more than 28 in each school district that has~~
6 ~~100,000 or more students, no more than 20 in each school~~
7 ~~district that has 50,000 to 99,999 students, and no more than~~
8 ~~12 in each school district with fewer than 50,000 students.~~

9 ~~(b) An existing public school which converts to a~~
10 ~~charter school shall not be counted towards the limit~~
11 ~~established by paragraph (a).~~

12
13 ~~Notwithstanding any limit established by this subsection, a~~
14 ~~district school board or a charter school applicant shall have~~
15 ~~the right to request an increase of the limit on the number of~~
16 ~~charter schools authorized to be established within the~~
17 ~~district from the State Board of Education.~~

18 (5)~~(6)~~ ELIGIBLE STUDENTS.--

19 (a) A charter school shall be open to any student
20 covered in an interdistrict agreement or residing in the
21 school district in which the charter school is located;
22 however, in the case of a developmental research school
23 created under s. 228.053 to which a charter has been issued
24 under paragraph (4)(e), the charter school shall be open to
25 any student eligible to attend the developmental research
26 school as provided in s. 228.053 or who resides in the school
27 district in which the charter school is located. Any eligible
28 student shall be allowed interdistrict transfer to attend a
29 charter school when based on good cause. When a public school
30 converts to charter status, enrollment preference shall be
31 given to students who would have otherwise attended that

1 public school. A charter school may give enrollment preference
2 to a sibling of a student enrolled in the charter school, to
3 the child of a member of the governing board of the charter
4 school, or to the child of an employee of the charter school.

5 (b) The charter school shall enroll an eligible
6 student who submits a timely application, unless the number of
7 applications exceeds the capacity of a program, class, grade
8 level, or building. In such case, all applicants shall have an
9 equal chance of being admitted through a random selection
10 process. A charter school may establish reasonable academic,
11 artistic, or other standards as a condition for eligibility
12 for applicants if the standards are in accordance with current
13 law and practice in existing public schools and do not
14 discriminate against otherwise qualified individuals based on
15 disability or limited English proficiency. Such admission
16 criteria must be included in the charter school's application
17 and charter.

18 (c) A charter school may limit the enrollment process
19 only to target the following student populations:

20 1. Students within specific age groups or grade
21 levels.

22 2. Students considered at risk of dropping out of
23 school or academic failure. Such students shall include
24 exceptional education students.

25 3. Students enrolling in a charter
26 school-in-the-workplace established pursuant to subsection
27 (22).

28 4. Students residing within a reasonable distance of
29 the charter school, as described in paragraph (13)(c). Such
30 students shall be subject to a random lottery and to the
31 racial/ethnic balance provisions described in subparagraph

1 (9)(a)8. or any federal provisions which require a school to
2 achieve a racial/ethnic balance reflective of the community it
3 serves or within the racial/ethnic range of other public
4 schools in the same school district.

5 (d) A student may withdraw from a charter school at
6 any time and enroll in another public school as determined by
7 school board policy.

8 (e) Students with handicapping conditions and students
9 served in English for Speakers of Other Languages programs
10 shall have an equal opportunity of being selected for
11 enrollment in a charter school.

12 (f) The capacity of the charter school shall be
13 determined annually by the governing board of the charter
14 school in consideration of the factors identified in this
15 subsection. The sponsor must be notified of such changes in
16 the school's capacity prior to implementation.

17 ~~(6)(7)~~ LEGAL ENTITY.--A charter school shall organize
18 as, or be operated by, a nonprofit organization. A charter
19 school may be operated by a municipality or other public
20 entity as provided for by law. As such, the charter school may
21 be either a private or a public employer. As a public
22 employer, a charter school may participate in the Florida
23 Retirement System upon application and approval as a "covered
24 group" under s. 121.021(34). If a charter school participates
25 in the Florida Retirement System, the charter school employees
26 shall be compulsory members of the Florida Retirement System.
27 As either a private or a public employer, a charter school may
28 contract for services with an individual or group of
29 individuals who are organized as a partnership or a
30 cooperative. Individuals or groups of individuals who contract
31 their services to the charter school are not public employees.

1 (7)~~(8)~~ REQUIREMENTS.--

2 (a) A charter school shall be nonsectarian in its
3 programs, admission policies, employment practices, and
4 operations.

5 (b) A charter school shall admit students as provided
6 in subsection (6).

7 (c) A charter school shall be accountable to its
8 sponsor for performance as provided in subsection (9).

9 (d) A charter school shall not charge tuition or fees,
10 except those fees normally charged by other public schools.
11 However, a developmental research school to which a charter
12 has been issued pursuant to paragraph (4)(e) may charge a
13 student activity and service fee as authorized by s.
14 228.053(5).

15 (e) A charter school shall meet all applicable state
16 and local health, safety, and civil rights requirements.

17 (f) A charter school shall not violate the
18 antidiscrimination provisions of s. 228.2001.

19 (g) A charter school shall be subject to an annual
20 financial audit in a manner similar to that of a school
21 district.

22 (h) No organization shall hold more than 15 charters
23 statewide.

24 (i) In order to provide financial information that is
25 comparable to that reported for other public schools, charter
26 schools are to maintain all financial records which constitute
27 their accounting system in accordance with the accounts and
28 codes prescribed in the most recent issuance of the
29 publication titled "Financial and Program Cost Accounting and
30 Reporting for Florida Schools." Charter schools are to provide
31 annual financial report and program cost report information in

1 the state-required formats for inclusion in district reporting
2 in compliance with s. 236.02(1). Charter schools which are
3 operated by a municipality or are a component unit of a parent
4 nonprofit organization may use the accounting system of the
5 municipality or the parent, but must reformat this information
6 for reporting according to this paragraph. At the discretion
7 of the charter school governing board, a charter school may
8 elect to follow generally accepted accounting principles for
9 not-for-profit organizations, but must reformat this
10 information for reporting according to this paragraph.

11 (8)(9) CHARTER.--The major issues involving the
12 operation of a charter school shall be considered in advance
13 and written into the charter. The charter shall be signed by
14 the governing body of the charter school and the sponsor,
15 following a public hearing to ensure community input.

16 (a) The charter shall address, and criteria for
17 approval of the charter shall be based on:

18 1. The school's mission, the students to be served,
19 and the ages and grades to be included.

20 2. The focus of the curriculum, the instructional
21 methods to be used, and any distinctive instructional
22 techniques to be employed.

23 3. The current incoming baseline standard of student
24 academic achievement, the outcomes to be achieved, and the
25 method of measurement that will be used. This section shall
26 include a detailed description for each of the following:

27 a. How the baseline student academic achievement
28 levels and prior rates of academic progress will be
29 established.

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1 b. How these baseline rates will be compared to rates
2 of academic progress achieved by these same students while
3 attending the charter school.

4 c. To the extent possible, how these rates of progress
5 will be evaluated and compared with rates of progress of other
6 closely comparable student populations.

7 4. The methods used to identify the educational
8 strengths and needs of students and how well educational goals
9 and performance standards are met by students attending the
10 charter school. Students in charter schools shall, at a
11 minimum, participate in the statewide assessment program.

12 5. In secondary charter schools, a method for
13 determining that a student has satisfied the requirements for
14 graduation in s. 232.246.

15 6. A method for resolving conflicts between the
16 governing body of the charter school and the sponsor.

17 7. The admissions procedures and dismissal procedures,
18 including the school's code of student conduct.

19 8. The ways by which the school will achieve a
20 racial/ethnic balance reflective of the community it serves or
21 within the racial/ethnic range of other public schools in the
22 same school district.

23 9. The financial and administrative management of the
24 school, including a reasonable demonstration of the
25 professional experience or competence of those individuals or
26 organizations applying to operate the charter school or those
27 hired or retained to perform such professional services. Both
28 public sector and private sector professional experience shall
29 be equally valid in such a consideration.

30 10. The manner in which the school will be insured,
31 including whether or not the school will be required to have

1 liability insurance, and, if so, the terms and conditions
2 thereof and the amounts of coverage.

3 11. The term of the charter which shall provide for
4 cancellation of the charter if insufficient progress has been
5 made in attaining the student achievement objectives of the
6 charter and if it is not likely that such objectives can be
7 achieved before expiration of the charter. The initial term of
8 a charter shall be for 3, 4, or 5 years. In order to
9 facilitate access to long-term financial resources for charter
10 school construction, charter schools that are operated by a
11 municipality or other public entity as provided by law are
12 eligible for up to a 15-year charter, subject to approval by
13 the local school board. A developmental research school is
14 eligible for a charter for a term of up to 15 years issued by
15 a state university pursuant to paragraph (4)(e). In addition,
16 to facilitate access to long-term financial resources for
17 charter school construction, charter schools that are operated
18 by a private, not-for-profit, s. 501(c)(3) status corporation
19 are eligible for up to a 10-year charter, subject to approval
20 by the local school board. Such long-term charters remain
21 subject to annual review and may be terminated during the term
22 of the charter, but only for specific good cause according to
23 the provisions set forth in subsection (10).

24 12. The facilities to be used and their location.

25 13. The qualifications to be required of the teachers.

26 14. The governance structure of the school, including
27 the status of the charter school as a public or private
28 employer as required in subsection (7).

29 15. A timetable for implementing the charter which
30 addresses the implementation of each element thereof and the
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1 date by which the charter shall be awarded in order to meet
2 this timetable.

3 16. In the case of an existing public school being
4 converted to charter status, alternative arrangements for
5 current students who choose not to attend the charter school
6 and for current teachers who choose not to teach in the
7 charter school after conversion in accordance with the
8 existing collective bargaining agreement or school board
9 policy in the absence of a collective bargaining agreement.
10 However, alternative arrangements shall not be required for
11 current teachers who choose not to teach in a developmental
12 research school to which a charter has been issued pursuant to
13 paragraph (4)(e), except as authorized by the employment
14 policies of the state university which grants the charter to
15 the developmental research school.

16 (b) A charter may be renewed every 5 school years,
17 provided that a program review demonstrates that the criteria
18 in paragraph (a) have been successfully accomplished and that
19 none of the grounds for nonrenewal established by paragraph
20 (10)(a) have been documented. In order to facilitate long-term
21 financing for charter school construction, charter schools
22 operating for a minimum of 2 years and demonstrating exemplary
23 academic programming and fiscal management are eligible for a
24 15-year charter renewal. Such long-term charter is subject to
25 annual review and may be terminated during the term of the
26 charter.

27 (c) A charter may be modified during its initial term
28 or any renewal term upon the recommendation of the sponsor or
29 the charter school governing board and the approval of both
30 parties to the agreement.

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1 (d) The governing body of the charter school shall
2 make annual progress reports to its sponsor, which upon
3 verification shall be forwarded to the Commissioner of
4 Education at the same time as other annual school
5 accountability reports. The report shall contain at least the
6 following information:

7 1. The charter school's progress towards achieving the
8 goals outlined in its charter.

9 2. The information required in the annual school
10 report pursuant to s. 229.592.

11 3. Financial records of the charter school, including
12 revenues and expenditures.

13 4. Salary and benefit levels of charter school
14 employees.

15 (e) A sponsor shall ensure that the charter is
16 innovative and consistent with the state education goals
17 established by s. 229.591.

18 (f) Upon receipt of the annual report required by
19 paragraph (d), the Department of Education shall provide to
20 the State Board of Education, the Commissioner of Education,
21 the President of the Senate, and the Speaker of the House of
22 Representatives an analysis and comparison of the overall
23 performance of charter school students, to include all
24 students whose scores are counted as part of the state
25 assessment program, versus comparable public school students
26 in the district as determined by the state assessment program
27 currently administered in the school district, and, as
28 appropriate, the Florida Writes Assessment Test, the High
29 School Competency Test, and other assessments administered
30 pursuant to s. 229.57(3).

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1 (g) Whenever a municipality has submitted charter
2 applications for the establishment of a charter school feeder
3 pattern (elementary, middle, and senior high schools), and
4 upon approval of each individual charter application by the
5 district school board, such applications will then be
6 designated as one charter for all purposes listed pursuant to
7 this section.

8 (9)~~(10)~~ CAUSES FOR NONRENEWAL OR TERMINATION.--

9 (a) At the end of the term of a charter, the sponsor
10 may choose not to renew the charter for any of the following
11 grounds:

12 1. Failure to meet the requirements for student
13 performance stated in the charter.

14 2. Failure to meet generally accepted standards of
15 fiscal management.

16 3. Violation of law.

17 4. Other good cause shown.

18 (b) During the term of a charter, the sponsor may
19 terminate the charter for any of the grounds listed in
20 paragraph (a).

21 (c) At least 90 days prior to renewing or terminating
22 a charter, the sponsor shall notify the governing body of the
23 school of the proposed action in writing. The notice shall
24 state in reasonable detail the grounds for the proposed action
25 and stipulate that the school's governing body may, within 14
26 calendar days after receiving the notice, request an informal
27 hearing before the sponsor. The sponsor shall conduct the
28 informal hearing within 30 calendar days after receiving a
29 written request. The charter school's governing body may,
30 within 14 calendar days after receiving the sponsor's decision
31 to terminate or refuse to renew the charter, appeal the

1 decision pursuant to the procedure established in subsection
2 (4).

3 (d) A charter may be terminated immediately if the
4 sponsor determines that good cause has been shown or if the
5 health, safety, or welfare of the students is threatened. The
6 school district in which the charter school is located shall
7 assume operation of the school under these circumstances. The
8 charter school's governing board may, within 14 days after
9 receiving the sponsor's decision to terminate the charter,
10 appeal the decision pursuant to the procedure established in
11 subsection (4).

12 (e) When a charter is not renewed or is terminated,
13 the school shall be dissolved under the provisions of law
14 under which the school was organized, and any unencumbered
15 funds from the charter school shall revert to the district
16 school board. In the event a charter school is dissolved or
17 is otherwise terminated, all district school board property
18 and improvements, furnishings, and equipment purchased with
19 public funds shall automatically revert to full ownership by
20 the district school board, subject to complete satisfaction of
21 any lawful liens or encumbrances.

22 (f) If a charter is not renewed or is terminated, the
23 charter school ~~governing body of the school~~ is responsible for
24 all debts of the charter school. The district may not assume
25 the debt from any contract for services made between the
26 governing body of the school and a third party, except for a
27 debt that is previously detailed and agreed upon in writing by
28 both the district and the governing body of the school and
29 that may not reasonably be assumed to have been satisfied by
30 the district.

31

1 (g) If a charter is not renewed or is terminated, a
2 student who attended the school may apply to, and shall be
3 enrolled in, another public school. Normal application
4 deadlines shall be disregarded under such circumstances.

5 (10)~~(11)~~ EXEMPTION FROM STATUTES.--A charter school
6 shall operate in accordance with its charter and shall be
7 exempt from all statutes of the Florida School Code, except
8 those specifically applying to charter schools; those
9 pertaining to the provision of services to students with
10 disabilities; those pertaining to civil rights, including s.
11 228.2001, relating to discrimination; and those pertaining to
12 student health, safety, and welfare; or as otherwise required
13 by this section. A charter school shall not be exempt from the
14 following statutes: chapter 119, relating to public records,
15 and s. 286.011, relating to public meetings and records,
16 public inspection, and penalties. The charter school's
17 governing board ~~sponsor, upon request of a charter school,~~ may
18 apply to the Commissioner of Education for a waiver of
19 provisions of chapters 230-239 which are applicable to charter
20 schools under this section, except that the provisions of
21 chapter 236 or chapter 237 shall not be eligible for waiver if
22 the waiver would affect funding allocations or create inequity
23 in public school funding. The Commissioner of Education must
24 confirm receipt of a waiver request from a charter school by
25 providing a copy of the request to the sponsoring district.
26 The commissioner may grant the waiver if necessary to
27 implement the school program.

28 (11)~~(12)~~ EMPLOYEES OF CHARTER SCHOOLS.--

29 (a) A charter school shall select its own employees. A
30 charter school may contract with its sponsor for the services
31 of personnel employed by the sponsor.

1 (b) Charter school employees shall have the option to
2 bargain collectively. Employees may collectively bargain as a
3 separate unit or as part of the existing district collective
4 bargaining unit as determined by the structure of the charter
5 school.

6 (c) The employees of a conversion charter school shall
7 remain public employees for all purposes, unless such
8 employees choose not to do so.

9 (d) The teachers at a charter school may choose to be
10 part of a professional group that subcontracts with the
11 charter school to operate the instructional program under the
12 auspices of a partnership or cooperative that they
13 collectively own. Under this arrangement, the teachers would
14 not be public employees.

15 (e) Employees of a school district may take leave to
16 accept employment in a charter school upon the approval of the
17 district school board. While employed by the charter school
18 and on leave that is approved by the school board, the
19 employee may retain seniority accrued in that school district
20 and may continue to be covered by the benefit programs of that
21 school district, if the charter school and the district school
22 board agree to this arrangement and its financing. School
23 districts shall not require resignations of teachers desiring
24 to teach in a charter school. This paragraph shall not
25 prohibit a school board from approving alternative leave
26 arrangements consistent with chapter 231.

27 (f) Except as otherwise provided by law, teachers
28 employed by or under contract to a charter school shall be
29 certified as required by chapter 231. A charter school
30 governing board may employ or contract with skilled selected
31 noncertified personnel to provide instructional services or to

1 assist instructional staff members as education
2 paraprofessionals in the same manner as defined in chapter
3 231, as determined by the governing board's procedures or
4 policies, and as provided by State Board of Education rule for
5 charter school governing boards. The charter school's
6 governing board will approve teachers who are teaching outside
7 their field of certification. A charter school may not employ
8 an individual to provide instructional services or to serve as
9 an education paraprofessional if the individual's
10 certification or licensure as an educator is suspended or
11 revoked by this or any other state. A charter school may not
12 knowingly employ an individual who has resigned from a school
13 district in lieu of disciplinary action with respect to child
14 welfare or safety, or who has been dismissed for just cause by
15 any school district with respect to child welfare or safety.
16 The qualifications of teachers shall be disclosed to parents.

17 (g) A charter school shall employ or contract with
18 employees who have been fingerprinted as provided in s.
19 231.02. Members of the governing board of the charter school
20 shall also be fingerprinted in a manner similar to that
21 provided in s. 231.02.

22 (12)~~(13)~~ REVENUE.--Students enrolled in a charter
23 school, regardless of the sponsorship, shall be funded as if
24 they are in a basic program or a special program, the same as
25 students enrolled in other public schools in the school
26 district. Funding for a chartered developmental research
27 school shall be as provided in s. 228.053(9).

28 (a) Each charter school shall report its student
29 enrollment to the district school board as required in s.
30 236.081, and in accordance with the definitions in s. 236.013.

31

1 The district school board shall include each charter school's
2 enrollment in the district's report of student enrollment.

3 (b) The basis for the agreement for funding students
4 enrolled in a charter school shall be the sum of the school
5 district's operating funds from the Florida Education Finance
6 Program as provided in s. 236.081 and the General
7 Appropriations Act, including gross state and local funds,
8 discretionary lottery funds, and funds from the school
9 district's current operating discretionary millage levy;
10 divided by total funded weighted full-time equivalent students
11 in the school district; multiplied by the weighted full-time
12 equivalent students for the charter school. Charter schools
13 whose students or programs meet the eligibility criteria in
14 law shall be entitled to their proportionate share of
15 categorical program funds included in the total funds
16 available in the Florida Education Finance Program by the
17 Legislature, including transportation. Total funding for each
18 charter school will be recalculated during the year to reflect
19 the revised calculations under the Florida Education Finance
20 Program by the state and the actual weighted full-time
21 equivalent students reported by the charter school during the
22 full-time equivalent student survey periods designated by the
23 Commissioner of Education.

24 (c) Transportation of charter school students shall be
25 provided by the charter school consistent with the
26 requirements of chapter 234. The governing body of the charter
27 school may provide transportation through an agreement or
28 contract with the district school board, a private provider,
29 or parents. The charter school and the sponsor shall cooperate
30 in making arrangements that ensure that transportation is not
31 a barrier to equal access for all students residing within a

1 reasonable distance of the charter school as determined in its
2 charter.

3 (d) If the district school board is providing programs
4 or services to students funded by federal funds, any eligible
5 students enrolled in charter schools in the school district
6 shall be provided federal funds for the same level of service
7 provided students in the schools operated by the district
8 school board. Pursuant to provisions of 20 U.S.C. 8061 s.
9 10306, all charter schools shall receive all federal funding
10 for which the school is otherwise eligible, including Title I
11 funding, not later than 5 months after the charter school
12 first opens and within 5 months after any subsequent expansion
13 of enrollment.

14 (e) Any administrative fee charged by the school
15 district relating to a charter school shall be limited to 5
16 percent of the available funds as defined in paragraph (b).
17 The sponsor may not withhold an administrative fee from
18 capital outlay funds, federal and state grants, or any other
19 funds unless explicitly provided by law.The sponsor shall
20 provide certain administrative and educational services to
21 charter schools at no additional fee. These services shall
22 include contract management services, FTE and data reporting,
23 including the FTE reporting system required by the district,
24 exceptional student education administration, test
25 administration, processing of teacher certificate data, and
26 information services. For purposes of this paragraph, the term
27 "information services" includes, but is not limited to,
28 electronic mail, internet access, daily mail courier, and
29 other information services as defined in the charter.

30 (f) School boards shall make every effort to ensure
31 that charter schools receive timely and efficient

1 reimbursement, including processing paperwork required to
2 access special state and federal funding for which they may be
3 eligible. The district school board may distribute funds to a
4 charter school for up to 3 months based on the projected
5 full-time equivalent student membership of the charter school.
6 Thereafter, the results of full-time equivalent student
7 membership surveys must be used in adjusting the amount of
8 funds distributed monthly to the charter school for the
9 remainder of the fiscal year. The payment shall be issued no
10 later than 10 working days after the district school board
11 receives a distribution of state or federal funds. If a
12 warrant for payment is not issued within 30 working days after
13 receipt of funding by the district school board, the school
14 district shall pay to the charter school, in addition to the
15 amount of the scheduled disbursement, interest at a rate of 1
16 percent per month calculated on a daily basis on the unpaid
17 balance from the expiration of the 30-day period until such
18 time as the warrant is issued.

19 (g) If a district school board facility or property is
20 available because it is surplus, marked for disposal, or
21 otherwise unused, it shall be provided for a charter school's
22 use on the same basis as it is made available to other public
23 schools in the district. A charter school receiving property
24 from the school district may not sell or dispose of such
25 property without written permission of the school district.
26 Similarly, for an existing public school converting to charter
27 status, no rental or leasing fee for the existing facility or
28 for the property normally inventoried to the conversion school
29 may be charged by the district school board to the parents and
30 teachers organizing the charter school. The charter
31 organizers shall agree to reasonable maintenance provisions in

1 order to maintain the facility in a manner similar to district
2 school board standards.

3 (h) If other goods and services are made available to
4 the charter school through the contract with the school
5 district, they shall be provided to the charter school at a
6 rate no greater than the district's actual cost. To maximize
7 the use of state funds, school districts shall allow charter
8 schools to participate in the sponsor's bulk purchasing
9 program if applicable.

10 (13)~~(14)~~ IMMUNITY.--For the purposes of tort
11 liability, the governing body and employees of a charter
12 school shall be governed by s. 768.28.

13 (14)~~(15)~~ LENGTH OF SCHOOL YEAR.--A charter school
14 shall provide instruction for at least the number of days
15 required by law for other public schools, and may provide
16 instruction for additional days.

17 (15)~~(16)~~ FACILITIES.--

18 (a) A charter school shall utilize facilities which
19 comply with the State Uniform Building Code for Public
20 Educational Facilities Construction adopted pursuant to s.
21 235.26 or with applicable state minimum building codes
22 pursuant to chapter 553 and state minimum fire protection
23 codes pursuant to s. 633.025, as adopted by the authority in
24 whose jurisdiction the facility is located.

25 (b) Any facility, or portion thereof, used to house a
26 charter school whose charter has been approved by the sponsor
27 and the governing board, pursuant to subsection (9), shall be
28 exempt from ad valorem taxes pursuant to s. 196.1983.

29 (c) After January 1, 2001, charter school facilities
30 shall utilize facilities which comply with the Florida
31

1 Building Code, pursuant to chapter 553, and the Florida Fire
2 Prevention Code, pursuant to chapter 633.

3 (16)~~(17)~~ INITIAL COSTS.--A sponsor may approve a
4 charter for a charter school before the applicant has secured
5 space, equipment, or personnel, if the applicant indicates
6 approval is necessary for it to raise working capital.

7 (17)~~(18)~~ INFORMATION.--The Department of Education
8 shall provide information to the public, directly and through
9 sponsors, both on how to form and operate a charter school and
10 on how to enroll in charter schools once they are created.
11 This information shall include a standard application format
12 which shall include the information specified in subsection
13 (9). This application format may be used by chartering
14 entities.

15 (18)~~(19)~~ GENERAL AUTHORITY.--A charter school shall
16 not levy taxes or issue bonds secured by tax revenues.

17 (19)~~(20)~~ REVIEW.--

18 (a) The Department of Education shall regularly
19 convene a Charter School Review Panel in order to review
20 issues, practices, and policies regarding charter schools. The
21 composition of the review panel shall include individuals with
22 experience in finance, administration, law, education, and
23 school governance, and individuals familiar with charter
24 school construction and operation. The panel shall include two
25 appointees each from the Commissioner of Education, the
26 President of the Senate, and the Speaker of the House of
27 Representatives. The Governor shall appoint three members of
28 the panel and shall designate the chair. Each member of the
29 panel shall serve a 1-year term, unless renewed by the office
30 making the appointment. The panel shall make recommendations
31 to the Legislature, to the Department of Education, to charter

1 schools, and to school districts for improving charter school
2 operations and oversight and for ensuring best business
3 practices at and fair business relationships with charter
4 schools.

5 (b) The Legislature shall review the operation of
6 charter schools during the 2005 Regular Session of the
7 Legislature.

8 (20)~~(21)~~ RULEMAKING.--The Department of Education,
9 after consultation with school districts and charter school
10 directors, shall recommend that the State Board of Education
11 adopt rules to implement specific subsections of this section.
12 Such rules shall require minimum paperwork and shall not limit
13 charter school flexibility authorized by statute.

14 (21)~~(22)~~ CHARTER SCHOOLS-IN-THE-WORKPLACE.--

15 (a) In order to increase business partnerships in
16 education, to reduce school and classroom overcrowding
17 throughout the state, and to offset the high costs for
18 educational facilities construction, the Legislature intends
19 to encourage the formation of business partnership schools or
20 satellite learning centers through charter school status.

21 (b) A charter school-in-the-workplace may be
22 established when a business partner provides the school
23 facility to be used; enrolls students based upon a random
24 lottery which involves all of the children of employees of
25 that business or corporation who are seeking enrollment, as
26 provided for in subsection (6); and enrolls students according
27 to the racial/ethnic balance provisions described in
28 subparagraph (9)(a)8. Any portion of a facility used for a
29 public charter school shall be exempt from ad valorem taxes,
30 as provided for in s. 235.198, for the duration of its use as
31 a public school.

1 (c) For purposes of this section, the term "business
2 partner" or "employer" may include more than one business or
3 employer in the information of a workplace school.

4 Section 2. Section 228.0561, Florida Statutes, is
5 amended to read:

6 228.0561 Charter schools capital outlay funding.--

7 (1) In each year in which funds are appropriated for
8 charter school capital outlay purposes, the Commissioner of
9 Education shall allocate the funds among eligible charter
10 schools. To be eligible for a funding allocation, a charter
11 school must meet the provisions of subsection (6), must have
12 received final approval from its sponsor pursuant to s.
13 228.056 for operation during that fiscal year, and must serve
14 students in facilities that are not provided by the charter
15 school's sponsor. Prior to the release of capital outlay
16 funds to a school district on behalf of the charter school,
17 the Department of Education shall ensure that the district
18 school board and the charter school governing board enter into
19 a written agreement that includes provisions for the reversion
20 of any unencumbered funds and all equipment and property
21 purchased with public education funds to the ownership of the
22 district school board, as provided for in subsection (3), in
23 the event that the school terminates operations. Any funds
24 recovered by the state shall be deposited in the General
25 Revenue Fund. A charter school is not eligible for a funding
26 allocation if it was created by the conversion of a public
27 school and operates in facilities provided by the charter
28 school's sponsor for a nominal fee or at no charge. Unless
29 otherwise provided in the General Appropriations Act, the
30 funding allocation for each eligible charter school shall be
31 determined by multiplying the school's projected student

1 enrollment by one-fifteenth of the cost-per-student station
2 specified in s. 235.435(6)(b) for an elementary, middle, or
3 high school, as appropriate. If the funds appropriated are
4 not sufficient, the commissioner shall prorate the available
5 funds among eligible charter schools. Funds shall be
6 distributed on the basis of the capital outlay full-time
7 equivalent membership by grade level, which shall be
8 calculated by averaging the results of the second and third
9 enrollment surveys. ~~Ninety~~ Sixty percent of the funds shall be
10 distributed after the second enrollment survey, and the
11 balance shall be distributed after the third enrollment
12 survey. The commissioner shall adjust subsequent distributions
13 as necessary to reflect each charter school's actual student
14 enrollment. The commissioner shall establish the intervals
15 and procedures for determining the projected and actual
16 student enrollment of eligible charter schools.

17 (2) A charter school's governing body may use charter
18 school capital outlay funds for any capital outlay purpose
19 that is directly related to the functioning of the charter
20 school, including the:

21 (a) Purchase of real property.

22 (b) Construction, renovation, repair, and maintenance
23 of school facilities. Nonbonded funds may be used for
24 maintenance, and repair may include custodial and
25 groundskeeping functions.

26 (c) Purchase, lease-purchase, or lease of permanent or
27 relocatable school facilities.

28 (d) Purchase of vehicles to transport students to and
29 from the charter school.

30 (e) Purchase with nonbonded funds of property
31 insurance, flood insurance, windstorm insurance, or any other

1 insurance having a direct nexus to the charter-school
2 facility.

3 (3) When a charter school is nonrenewed or terminated,
4 any unencumbered funds and all equipment and property
5 purchased with district public funds shall revert to the
6 ownership of the district school board, as provided for in s.
7 228.056(10)(e) and (f). In the case of a developmental
8 research school established pursuant to s. 228.053 to which a
9 charter has been issued, any unencumbered funds and all
10 equipment and property purchased with university public funds
11 shall revert to the ownership of the state university that
12 issued the charter. The reversion of such equipment, property,
13 and furnishings shall focus on recoverable assets, but not on
14 intangible or irrecoverable costs such as rental or leasing
15 fees, normal maintenance, and limited renovations. The
16 reversion of all property secured with public funds is subject
17 to the complete satisfaction of all lawful liens or
18 encumbrances. If there are additional local issues such as the
19 shared use of facilities or partial ownership of facilities or
20 property, these issues shall be agreed to in the charter
21 contract prior to the expenditure of funds.

22 (4) The Commissioner of Education shall specify
23 procedures for submitting and approving requests for funding
24 under this section and procedures for documenting
25 expenditures.

26 (5) The annual legislative budget request of the
27 Department of Education shall include a request for capital
28 outlay funding for charter schools. The request shall be
29 based on the projected number of students to be served in
30 charter schools who meet the eligibility requirements of this
31 section.

1 (6) Unless authorized otherwise by the Legislature,
2 allocation and proration of charter school capital outlay
3 funds shall be made to eligible charter schools by the
4 Commissioner of Education in an amount and in a manner
5 authorized by subsection (1).

6 Section 3. This act shall take effect upon becoming a
7 law.

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10 SENATE SUMMARY

11 Revises numerous provisions regarding charter schools,
12 including conversion charter school requirements,
13 application fees, limitations on the number of charter
14 schools, limitations on admissions, charter-school
15 capacities, rights of appeal, exemptions from certain
16 requirements, staffing requirements, district
17 administrative fees, funding for facilities, and
18 requirements relating to charter schools in the
19 workplace. (See bill for details).
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