

By Senator Wise

5-00517-09

2009610__

1 A bill to be entitled
2 An act relating to the Florida Schools of Excellence;
3 amending s. 1002.335, F.S.; revising legislative
4 findings and intent; providing the purpose of the
5 Florida Schools of Excellence Commission; providing
6 that the commission may authorize new sources of
7 community support to participate as cosponsors in
8 developing and supporting charter schools; deleting
9 obsolete provisions; authorizing the commission to
10 meet by teleconference; revising the powers and duties
11 of the commission; revising the application
12 requirements to sponsor a Florida School of Excellence
13 (FSE) charter school; providing requirements under
14 which the commission may sponsor a conversion charter
15 school and a FSE charter school; deleting provisions
16 that authorize a school board to retain exclusive
17 authority to authorize charter schools; deleting
18 provisions that authorize a party to challenge the
19 grant of a school board's exclusive authority to
20 authorize a charter school; conforming provisions to
21 changes made by the act; specifying the number of
22 charter schools that a cosponsor may approve; revising
23 requirements of the cosponsor agreement; authorizing a
24 cosponsor to approve certain charter schools;
25 authorizing a charter school's governing body to seek
26 permanent commission sponsorship under certain
27 circumstances; authorizing the commission to consider
28 certain application review criteria when reviewing a
29 charter school application; revising the application

5-00517-09

2009610__

30 requirements of existing charter schools; requiring
31 the Department of Education to provide mediation
32 services when the district school board and conversion
33 charter school cannot agree on terms for the continued
34 use of the conversion charter school's assets by the
35 conversion charter school; requiring that the district
36 school board and the conversion charter school submit
37 to binding arbitration if a settlement cannot be
38 reached through mediation; providing additional
39 criteria for charter contracts; providing terms of the
40 charter contracts; providing circumstances under which
41 a charter contract is terminated or when new
42 applications are solicited to assume the charter
43 contract; providing that an employee of a charter
44 school is an eligible employee pursuant to s.
45 121.4501, F.S., relating to the Public Employee
46 Optional Retirement Program; prohibiting charter
47 school employees from participating in the Florida
48 Retirement System; revising the funding for charter
49 schools; requiring that the State Board of Education
50 adopt rules approved by the commission; creating s.
51 1002.337, F.S.; requiring school districts to make
52 timely and efficient payment and reimbursement of
53 funding to the commission; requiring the Department of
54 Education to distribute certain funds; requiring the
55 distribution of funds by the commission and the
56 cosponsors; authorizing the commission or the
57 cosponsor to retain a certain amount of the funds to
58 ensure compliance by the charter schools; requiring

5-00517-09

2009610__

59 that funds payable to the commission and the
60 cosponsors be deposited in an approved depository;
61 providing that a school district is not required to
62 offer special instruction, facilities, or services to
63 students enrolled in a FSE charter school; authorizing
64 FSE charter schools to contract for certain functions
65 and services; prohibiting FSE charter schools from
66 offering special instruction, facilities, or services
67 to certain students with disabilities; requiring FSE
68 charter school applicants to explain how they will
69 provide certain services; requiring the charter
70 agreement to specify that the board of directors for
71 the charter school is required to post a bond;
72 authorizing certain students who are enrolled in a FSE
73 charter school to participate in the John M. McKay
74 Scholarships for Students with Disabilities Program;
75 requiring the department to transfer funds from the
76 commission's and cosponsors' total funding entitlement
77 to a separate account for the scholarship program;
78 authorizing the commission to establish a direct-
79 support organization; providing criteria for the
80 direct-support organization; authorizing the
81 commission to allow the use of property, facilities,
82 and personal services by the direct-support
83 organization; authorizing the commission, cosponsors,
84 and charter schools to enter into risk-management and
85 self-insurance programs or to purchase liability
86 insurance; requiring the State Board of Education to
87 adopt rules; providing for severability; providing an

5-00517-09

2009610__

88 effective date.

89

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

91

92 Section 1. Section 1002.335, Florida Statutes, is amended
93 to read:

94 1002.335 Florida Schools of Excellence Commission.—

95 (1) FINDINGS.—The Legislature finds that:

96 (a) Charter schools are a critical component in the state's
97 efforts to provide by law a uniform, efficient, safe, secure,
98 and high-quality ~~schools within the state's uniform~~ system of
99 free public schools that allow students to obtain a high-quality
100 education.

101 (b) Charter schools provide valuable educational options
102 and innovative learning opportunities while expanding the
103 capacity of the state's system of public education and
104 empowering parents with the ability to make choices that best
105 fit the individual needs of their children.

106 (c) The growth of charter schools in the state has
107 contributed to enhanced student performance, greater efficiency,
108 and the improvement of all public schools.

109 (d) A student should not be compelled, against the wishes
110 of the student's parent, to remain in a public school found by
111 the state to be chronically failing or below average.

112 (e) Parents whose children are in schools where the
113 district school board has failed to operate, control, and
114 supervise the school in a manner enabling the state to comply
115 with federal law or s. 1(a), Art. IX of the State Constitution
116 should have the choice to send their children to another public

5-00517-09

2009610__

117 school under the control of the district school board or to a
118 remedial charter school sponsored by the Florida Schools of
119 Excellence Commission or a cosponsor under the supervision of
120 the State Board of Education in keeping with its duties
121 specified in federal law and in s. 2, Art. IX of the State
122 Constitution.

123 (2) INTENT.—It is the intent of the Legislature that:

124 (a) There be established an independent, state-level
125 commission known as the Florida Schools of Excellence Commission
126 whose primary purpose ~~focus~~ is the development and support of
127 remedial charter schools, known as Florida Schools of Excellence
128 (FSE) charter schools, which shall be an alternative to a public
129 school found by the state to be chronically failing or below
130 average in order to ensure that the state is making adequate
131 provision by law for a uniform, efficient, safe, secure, and
132 high-quality system of free public schools which allows students
133 to obtain a high-quality education ~~in order to better meet the~~
134 ~~growing and diverse needs of some of the increasing number and~~
135 ~~array of charter schools in the state and to further ensure that~~
136 ~~charter schools of the highest academic quality are approved and~~
137 ~~supported throughout the state in an efficient manner.~~

138 (b) New sources of community support in the form of
139 municipalities with knowledge of the unique needs of a
140 particular community or state universities, community colleges,
141 or regional educational consortia with special education
142 expertise should be authorized by the commission to participate
143 as cosponsors in developing and supporting charter schools that
144 maximize access to a wide variety of high-quality educational
145 options for all students regardless of disability, race, or

5-00517-09

2009610__

146 socioeconomic status.

147 (3) FLORIDA SCHOOLS OF EXCELLENCE COMMISSION.—

148 (a) The ~~Florida Schools of Excellence~~ commission is
149 established as an independent, state-level charter school
150 authorizing entity working in collaboration with the Department
151 of Education and under the supervision of the State Board of
152 Education. ~~Startup~~ Funds necessary to establish and operate the
153 commission may be received through private contributions and
154 federal and other institutional grants through the Grants and
155 Donations Trust Fund and the Federal Grants Trust Fund housed
156 within the department in addition to funds provided in the
157 General Appropriations Act. The department shall assist in
158 securing federal and other institutional grant funds to
159 establish the commission.

160 (b) The commission shall be appointed by the State Board of
161 Education and shall be composed of three appointees recommended
162 by the Governor, two appointees recommended by the President of
163 the Senate, and two appointees recommended by the Speaker of the
164 House of Representatives. The Governor, the President of the
165 Senate, and the Speaker of the House of Representatives shall
166 each recommend a list of no fewer than two nominees for any
167 appointment to the commission. ~~The appointments shall be made as~~
168 ~~soon as feasible but no later than September 1, 2006.~~ Each
169 member shall serve a term of 2 years; however, for the purpose
170 of providing staggered terms, of the initial appointments, three
171 members shall be appointed to 1-year terms and four members
172 shall be appointed to 2-year terms. Thereafter, each appointee
173 shall serve a 2-year term unless the State Board of Education,
174 after review, extends the appointment. If a vacancy occurs on

5-00517-09

2009610__

175 the commission, it shall be filled by the State Board of
176 Education from a recommendation by the appropriate authority
177 according to the procedure set forth in this paragraph. The
178 members of the commission shall annually vote to appoint a chair
179 and a vice chair. Each member of the commission must hold a
180 bachelor's degree or higher, and the commission must include
181 individuals who have experience in finance, administration, law,
182 education, and school governance.

183 (c) The commission ~~is encouraged to convene its first~~
184 ~~meeting no later than October 1, 2006, and, thereafter,~~ shall
185 meet each month at the call of the chair or upon the request of
186 four members of the commission. Four members of the commission
187 ~~shall~~ constitute a quorum. Meetings may be held by
188 teleconference or other means of telecommunications as the chair
189 directs.

190 (d) The commission shall appoint an executive director who
191 shall employ such staff as is necessary to perform the
192 administrative duties and responsibilities of the commission.

193 (e) The members of the commission shall not be compensated
194 for their services on the commission but are entitled to
195 reimbursement ~~may be reimbursed~~ for per diem and travel expenses
196 pursuant to s. 112.061.

197 (4) POWERS AND DUTIES.—

198 (a) The commission shall have the power to:

199 1. Authorize and act as a sponsor of charter schools,
200 including the approval or denial of charter school applications
201 pursuant to subsection (9) and the nonrenewal or termination of
202 charter schools pursuant to s. 1002.33(8) as an alternative to a
203 public school found by the state to be chronically failing or

5-00517-09

2009610__

204 below average.

205 2. Authorize municipalities, state universities, community
206 colleges, and regional educational consortia to act as
207 cosponsors of charter schools that are sponsored by the
208 commission, including the approval or denial of cosponsor
209 applications pursuant to State Board of Education rule and
210 subsection (6) and the revocation of approval of cosponsors
211 pursuant to State Board of Education rule and subsection (8).

212 3. Approve or deny ~~FSE Florida Schools of Excellence (FSE)~~
213 charter school applications according to the requirements
214 specified in s. 1002.33 and subsection (5) and renew or
215 terminate charters of FSE charter schools for reasons specified
216 in s. 1002.33 and subsection (11).

217 4. Conduct facility and curriculum reviews of charter
218 schools approved by the commission or one of its cosponsors.

219 (b) The commission shall have the following duties:

220 1. Review charter school applications and assist in the
221 establishment of ~~FSE Florida Schools of Excellence (FSE)~~ charter
222 schools wherever a public school receives a grade of "F"
223 pursuant to s. 1008.34 for 2 years in a 4-year period or a grade
224 of "D" for 3 years in a 5-year period, and wherever else a
225 charter school is approved by a school district throughout the
226 state. An FSE charter school shall exist as a public school
227 within the state as a component of the delivery of public
228 education within Florida's K-20 education system.

229 2. Develop, promote, and disseminate best practices for
230 charter schools and charter school sponsors in order to ensure
231 that high-quality charter schools are developed and incentivized
232 throughout the state. At a minimum, the best practices shall

5-00517-09

2009610__

233 encourage the development and replication of academically and
234 financially proven charter school programs.

235 3. Develop, promote, and require high standards of
236 accountability for any school that applies for and is granted a
237 charter under this section.

238 4. Monitor and annually review the performance of
239 cosponsors approved pursuant to this section and hold the
240 cosponsors accountable for their performance pursuant to the
241 provisions of paragraph (6) (c). The commission shall annually
242 review and evaluate the performance of each cosponsor based upon
243 the financial and administrative support provided to the
244 cosponsor's charter schools and the quality of charter schools
245 approved by the cosponsor, including the academic performance of
246 the students who attend those schools.

247 5. Monitor and annually review and evaluate the academic
248 and financial performance of the charter schools it sponsors and
249 hold the schools accountable for their performance pursuant to
250 the provisions of chapter 1008.

251 6. Report the student enrollment in each of its sponsored
252 charter schools to the district school board of the county in
253 which the school is located and to its sponsor.

254 7. Work with its cosponsors to monitor the financial
255 management of each FSE charter school.

256 8. Direct charter schools and persons seeking to establish
257 charter schools to sources of private funding and support.

258 9. Actively seek, with the assistance of the department,
259 supplemental revenue from federal grant funds, institutional
260 grant funds, and philanthropic organizations. The commission
261 may, through the department's Grants and Donations Trust Fund or

5-00517-09

2009610__

262 its direct-support organization, receive and expend gifts,
263 grants, and donations of any kind from any public or private
264 entity to carry out the purposes of this section.

265 10. Review and recommend to the Legislature any necessary
266 revisions to statutory requirements regarding the qualification
267 and approval of municipalities, state universities, community
268 colleges, and regional educational consortia as cosponsors for
269 FSE charter schools.

270 11. Review and recommend to the Legislature any necessary
271 revisions to statutory requirements regarding the standards for
272 accountability and criteria for revocation of approval of
273 cosponsors of FSE charter schools.

274 12. Act as liaison for cosponsors and FSE charter schools
275 in cooperating with district school boards that may choose to
276 allow charter schools to utilize excess space within district
277 public school facilities.

278 13. Collaborate with municipalities, state universities,
279 community colleges, and regional educational consortia as
280 cosponsors for FSE charter schools for the purpose of providing
281 the highest level of public education to low-income, low-
282 performing, gifted, or underserved student populations. Such
283 collaborations shall:

284 a. Allow state universities and community colleges that
285 cosponsor FSE charter schools to enable students attending a
286 charter school to take college courses and receive high school
287 and college credit for such courses.

288 b. Be used to determine the feasibility of opening charter
289 schools for students with disabilities, including, but not
290 limited to, charter schools for children with autism that work

5-00517-09

2009610__

291 with and utilize the specialized expertise of the Centers for
292 Autism and Related Disabilities established and operated
293 pursuant to s. 1004.55.

294 c. Support innovative learning opportunities, such as
295 schools specifically dedicated to science and mathematics.

296 14. Support municipalities when the mayor or chief
297 executive, through resolution passed by the governing body of
298 the municipality, expresses an intent to cosponsor and establish
299 charter schools within the municipal boundaries as long as the
300 other conditions of this section are met.

301 15. Meet the needs of charter schools and school districts
302 by uniformly administering high-quality charter schools, thereby
303 removing administrative burdens from the school districts.

304 16. Assist FSE charter schools in negotiating and
305 contracting with district school boards that choose to provide
306 certain administrative or transportation services to the charter
307 schools on a contractual basis.

308 17. Provide training for members of FSE charter school
309 governing bodies ~~within 90 days after approval of the charter~~
310 ~~school~~. The training shall include, but not be limited to, best
311 practices on charter school governance, the constitutional and
312 statutory requirements relating to public records and meetings,
313 and the requirements of applicable statutes and State Board of
314 Education rules.

315 18. Perform or cause to be performed all of the duties of
316 sponsors set forth in s. 1002.33(5)(b) and (20).

317 (5) CHARTERING AUTHORITY.—

318 (a) A charter school applicant may submit an application to
319 the commission according to an application schedule set by the

5-00517-09

2009610

320 commission to sponsor a FSE charter school that will enable the
321 state to comply with s. 1(a), Art. IX of the State Constitution
322 where there are chronically failing or below-average schools
323 sponsored by school districts. The commission shall investigate
324 or cause to be investigated the reasons for the chronic failure
325 and develop criteria for reviewing applications which are
326 specific to these remedial purposes. The criteria shall be
327 disclosed to applicants before the application deadline and must
328 have an important educational purpose intended to enable the
329 state to comply with s. 1(a), Art. IX of the State Constitution.
330 The opportunity to open a FSE charter school is a privilege and
331 not a right of the charter school applicant ~~only if the school~~
332 ~~district in which the FSE charter school is to be located has~~
333 ~~not retained exclusive authority to authorize charter schools as~~
334 ~~provided in paragraph (e). If a district school board has not~~
335 ~~retained exclusive authority to authorize charter schools as~~
336 ~~provided in paragraph (e), the district school board and the~~
337 ~~commission shall have concurrent authority to authorize charter~~
338 ~~schools and FSE charter schools, respectively, to be located~~
339 ~~within the geographic boundaries of the school district. The~~
340 ~~district school board shall monitor and oversee all charter~~
341 ~~schools authorized by the district school board pursuant to s.~~
342 ~~1002.33. The commission shall monitor and oversee all FSE~~
343 ~~charter schools sponsored by the commission pursuant to~~
344 ~~subsection (4).~~

345 (b) This section does not ~~Paragraph (e) may not be~~
346 ~~construed to~~ eliminate the ability of a district school board to
347 authorize charter schools pursuant to s. 1002.33. A district
348 school board shall retain the authority to reauthorize and to

5-00517-09

2009610__

349 oversee any charter school that it has authorized, except with
350 respect to any charter school that is converted to an FSE
351 charter school under this section.

352 (c) If a school receives a grade of "F" pursuant to s.
353 1008.34 for 2 years in a 4-year period, notwithstanding the
354 assistance offered in s. 1008.33, the commission may sponsor a
355 conversion charter school at the chronically failing public
356 school or sponsor one or more FSE charter schools within the
357 school zone designated the prior year for the chronically
358 failing school. The commission shall provide at least 60 days'
359 notice to the school district of its intent to convert a school.
360 The school district shall provide a financial audit of the
361 school in accordance with s. 218.39, including, but not limited
362 to, accounting for all sources of revenue and direct and
363 indirect costs within 45 days after the notice. A conversion
364 charter school established under this paragraph is entitled to
365 any additional resources available under s. 1008.33(2)(a) or
366 through the commission's direct-support organization. Parents
367 whose children are enrolled at a chronically failing school may
368 enroll their children in another district school of their choice
369 or any FSE charter school. Parents are not entitled under state
370 law to free transportation to a FSE charter school. For fiscal
371 year 2007-2008 and for each fiscal year thereafter, a district
372 school board may seek to retain exclusive authority to authorize
373 charter schools within the geographic boundaries of the school
374 district by presenting to the State Board of Education, on or
375 before March 1 of the fiscal year prior to that for which the
376 exclusive authority is to apply, a written resolution adopted by
377 the district school board indicating the intent to retain

5-00517-09

2009610__

378 ~~exclusive authority to authorize charter schools. A district~~
379 ~~school board may seek to retain the exclusive authority to~~
380 ~~authorize charter schools by presenting to the state board the~~
381 ~~written resolution on or before a date 60 days after~~
382 ~~establishment of the commission. The written resolution shall be~~
383 ~~accompanied by a written description addressing the elements~~
384 ~~described in paragraph (e). The district school board shall~~
385 ~~provide a complete copy of the resolution, including the~~
386 ~~description, to each charter school authorized by the district~~
387 ~~school board on or before the date it submits the resolution to~~
388 ~~the state board.~~

389 (d) If a school receives a grade of "D" pursuant to s.
390 1008.34 for 3 years in a 5-year period, the commission may
391 sponsor an FSE charter school within the school zone designated
392 the prior year for the chronically below-average school. Parents
393 whose children are enrolled at the chronically below-average
394 school may send their children to another district school of
395 their choice or to any FSE charter school. Parents are not
396 entitled under state law to free transportation to a FSE charter
397 school. A party may challenge the grant of exclusive authority
398 ~~made by the State Board of Education pursuant to paragraph (e)~~
399 ~~by filing with the state board a notice of challenge within 30~~
400 ~~days after the state board grants exclusive authority. The~~
401 ~~notice shall be accompanied by a specific written description of~~
402 ~~the basis for the challenge. The challenging party, at the time~~
403 ~~of filing notice with the state board, shall provide a copy of~~
404 ~~the notice of challenge to the district school board that has~~
405 ~~been granted exclusive authority. The state board shall permit~~
406 ~~the district school board the opportunity to appear and respond~~

5-00517-09

2009610__

407 ~~in writing to the challenge. The state board shall make a~~
408 ~~determination upon the challenge within 60 days after receiving~~
409 ~~the notice of challenge.~~

410 ~~(e) The State Board of Education shall grant to a district~~
411 ~~school board exclusive authority to authorize charter schools~~
412 ~~within the geographic boundaries of the school district if the~~
413 ~~state board determines, after adequate notice, in a public~~
414 ~~hearing, and after receiving input from any charter school~~
415 ~~authorized by the district school board, that the district~~
416 ~~school board has provided fair and equitable treatment to its~~
417 ~~charter schools during the 4 years prior to the district school~~
418 ~~board's submission of the resolution described in paragraph (c).~~
419 ~~The state board's review of the resolution shall, at a minimum,~~
420 ~~include consideration of the following:~~

421 ~~1. Compliance with the provisions of s. 1002.33.~~

422 ~~2. Compliance with full and accurate accounting practices~~
423 ~~and charges for central administrative overhead costs.~~

424 ~~3. Compliance with requirements allowing a charter school,~~
425 ~~at its discretion, to purchase certain services or a combination~~
426 ~~of services at actual cost to the district.~~

427 ~~4. The absence of a district school board moratorium~~
428 ~~regarding charter schools or the absence of any districtwide~~
429 ~~charter school enrollment limits.~~

430 ~~5. Compliance with valid orders of the state board.~~

431 ~~6. The provision of assistance to charter schools to meet~~
432 ~~their facilities needs by including those needs in local bond~~
433 ~~issues or otherwise providing available land and facilities that~~
434 ~~are comparable to those provided to other public school students~~
435 ~~in the same grade levels within the school district.~~

5-00517-09

2009610

436 ~~7. The distribution to charter schools authorized by the~~
437 ~~district school board of a pro rata share of federal and state~~
438 ~~grants received by the district school board, except for any~~
439 ~~grant received for a particular purpose which, by its express~~
440 ~~terms, is intended to benefit a student population not able to~~
441 ~~be served by, or a program not able to be offered at, a charter~~
442 ~~school that did not receive a proportionate share of such grant~~
443 ~~proceeds.~~

444 ~~8. The provision of adequate staff and other resources to~~
445 ~~serve charter schools authorized by the district school board,~~
446 ~~which services are provided by the district school board at a~~
447 ~~cost to the charter schools that does not exceed their actual~~
448 ~~cost to the district school board.~~

449 ~~9. The lack of a policy or practice of imposing individual~~
450 ~~charter school enrollment limits, except as otherwise provided~~
451 ~~by law.~~

452 ~~10. The provision of an adequate number of educational~~
453 ~~choice programs to serve students exercising their rights to~~
454 ~~transfer pursuant to the "No Child Left Behind Act of 2001,"~~
455 ~~Pub. L. No. 107-110, and a history of charter school approval~~
456 ~~that encourages chartering.~~

457 ~~(f) The decision of the State Board of Education pursuant~~
458 ~~to paragraph (c) shall not be subject to the provisions of~~
459 ~~chapter 120 and shall be a final action subject to judicial~~
460 ~~review by the district court of appeal.~~

461 ~~(g) For district school boards that have no discernible~~
462 ~~history of authorizing charter schools, the State Board of~~
463 ~~Education may not grant exclusive authority unless the district~~
464 ~~school board demonstrates that no approvable application has~~

5-00517-09

2009610__

465 ~~come before the district school board.~~

466 ~~(h) A grant of exclusive authority by the State Board of~~
467 ~~Education shall continue so long as a district school board~~
468 ~~continues to comply with this section and has presented a~~
469 ~~written resolution to the state board as set forth in paragraph~~
470 ~~(e).~~

471 (e)(i) Notwithstanding any other provision of this section
472 to the contrary, a district school board may permit the
473 establishment of one or more FSE charter schools within the
474 geographic boundaries of the school district by adopting a
475 favorable resolution and submitting the resolution to the State
476 Board of Education. The resolution shall be effective until it
477 is rescinded by resolution of the district school board.

478 (6) APPROVAL OF COSPONSORS.—

479 (a) The commission shall accept ~~begin accepting~~
480 applications by municipalities, state universities, community
481 colleges, and regional educational consortia to become
482 cosponsors ~~no later than January 31, 2007~~. The commission shall
483 review and evaluate all applications for compliance with ~~the~~
484 ~~provisions of~~ paragraph (c) and shall have 90 days after receipt
485 of an application to approve or deny the application unless the
486 90-day period is waived by the applicant.

487 (b) The commission shall limit the number of charter
488 schools which ~~that~~ a cosponsor may approve to two pursuant to
489 its review of the cosponsor's application under paragraph (c).
490 Upon application by the cosponsor and review by the commission
491 of the performance of a cosponsor's current charter schools, the
492 commission may approve a cosponsor's application to raise the
493 limit previously set by the commission.

5-00517-09

2009610__

494 (c) Any entity set forth in paragraph (a) which ~~that~~ is
495 interested in becoming a cosponsor pursuant to this section
496 shall prepare and submit an application to the commission which
497 ~~that~~ provides evidence that the entity:

498 1. Has the necessary staff and infrastructure or has
499 established the necessary contractual or interagency
500 relationships to ensure its ability to handle all of the
501 administrative responsibilities required of a charter school
502 sponsor as set forth in ss. ~~s.~~ 1002.33(20) and 1002.337.

503 2. Has the necessary staff expertise and infrastructure or
504 has established the necessary contractual or interagency
505 relationships to ensure that it will approve and is able to
506 develop and maintain charter schools of the highest academic
507 quality.

508 3. Is able to provide the necessary public and private
509 financial resources and staff to ensure that it can monitor and
510 support charter schools that are economically efficient and
511 fiscally sound.

512 4. Is committed to providing equal access to all students
513 and to maintaining a diverse student population within its
514 charter schools, including compliance with all applicable
515 requirements of federal law.

516 5. Is committed to serving low-income, low-performing,
517 gifted, or underserved student populations.

518 6. Has articulated annual academic and financial goals and
519 expected outcomes for its charter schools as well as the methods
520 and plans by which it will measure and achieve those goals and
521 outcomes.

522 7. Has policies in place to protect its cosponsoring

5-00517-09

2009610__

523 practices from conflicts of interest.

524 (d) The commission's decision to deny an application or to
525 revoke approval of a cosponsor pursuant to subsection (8) is not
526 subject to chapter 120 and may be appealed to the State Board of
527 Education pursuant to s. 1002.33(6).

528 (7) COSPONSOR AGREEMENT.—

529 (a) Upon approval of a cosponsor, the commission and the
530 cosponsor shall enter into an agreement that defines the
531 cosponsor's rights and obligations and includes the following:

532 1. An explanation of the personnel, contractual and
533 interagency relationships, and potential revenue sources
534 referenced in the application as required in paragraph (6)(c).

535 2. Incorporation of the requirements of equal access for
536 all students, including any plans to provide food service or
537 transportation reasonably necessary to provide access to as many
538 students as possible.

539 3. Incorporation of the requirement to serve low-income,
540 low-performing, gifted, or underserved student populations.

541 4. An explanation of the academic and financial goals and
542 expected outcomes for the cosponsor's charter schools and the
543 method and plans by which they will be measured and achieved as
544 referenced in the application.

545 5. The conflict-of-interest policies referenced in the
546 application.

547 6. An explanation of the disposition of facilities and
548 assets upon termination and dissolution of a charter school
549 approved by the cosponsor.

550 7. A provision requiring the cosponsor to annually appear
551 before the commission and provide a report as to the information

5-00517-09

2009610__

552 provided pursuant to s. 1002.33(9)(1) for each of its charter
553 schools.

554 8. A provision requiring that the cosponsor report the
555 student enrollment in each of its sponsored charter schools to
556 the district school board of the county in which the school is
557 located and to the commission.

558 9. A provision requiring that the cosponsor work with the
559 commission to provide the necessary reports to the State Board
560 of Education.

561 10. Any other reasonable terms deemed appropriate by the
562 commission given the unique characteristics of the cosponsor.

563 (b) A ~~No~~ cosponsor may not receive applications for charter
564 schools until a cosponsor agreement with the commission has been
565 approved and signed by the commission and the appropriate
566 individuals or governing bodies of the cosponsor.

567 (c) The cosponsor may approve a charter school only in
568 those areas in which the commission may approve them and as set
569 forth in the cosponsor agreement.

570 (d)~~(e)~~ The cosponsor agreement shall be proposed and
571 negotiated pursuant to the timeframes set forth in s.
572 1002.33(6)(i).

573 (e)~~(d)~~ The cosponsor agreement shall be attached to and
574 shall govern all charter school contracts entered into by the
575 cosponsor.

576 (8) CAUSES FOR REVOCATION OF APPROVAL OF A COSPONSOR.—If at
577 any time the commission finds that a cosponsor is not in
578 compliance, or is no longer willing to comply, with its contract
579 with a charter school or with its cosponsor agreement with the
580 commission, the commission shall provide notice and a hearing in

5-00517-09

2009610__

581 accordance with State Board of Education rule. If after a
582 hearing the commission confirms its initial finding, the
583 commission shall revoke the cosponsor's approval. The commission
584 shall assume temporary sponsorship over any charter school
585 sponsored by the cosponsor at the time of revocation.
586 Thereafter, ~~the commission may assume permanent sponsorship over~~
587 ~~such school or allow~~ the school's governing body may seek
588 permanent commission sponsorship or to apply to another sponsor
589 or cosponsor.

590 (9) CHARTER SCHOOL APPLICATION AND REVIEW.—Charter school
591 applications submitted to the commission or to a cosponsor
592 approved by the commission pursuant to subsection (6) are shall
593 ~~be~~ subject to the same requirements set forth in s. 1002.33(6).
594 The commission or cosponsor shall receive and review all
595 applications for FSE charter schools according to the provisions
596 for review of charter school applications under s.
597 1002.33(6)(b). However, the commission may also consider
598 criteria for reviewing applications which are relevant to the
599 specific remedial site proposed for a FSE charter school as set
600 forth in subsection (5). The startup of a charter school
601 approved under this section shall be according to the timeline
602 established by the commission.

603 (10) APPLICATIONS OF EXISTING CHARTER SCHOOLS.—

604 (a) An application to the commission or one of its
605 cosponsors may be submitted pursuant to this section by an
606 existing charter school approved by a district school board may
607 be submitted only upon the consent of the district school board
608 if provided that the obligations of its charter contract with
609 the district school board will expire prior to entering into a

5-00517-09

2009610__

610 new charter contract with the commission or one of its
611 cosponsors. A district school board may agree to rescind or
612 waive the obligations of a current charter contract to allow an
613 application to be submitted by an existing charter school
614 pursuant to this section. A charter school that changes sponsors
615 pursuant to this subsection shall be allowed to continue the use
616 of all facilities, equipment, and other assets it owned or
617 leased prior to the expiration or rescission of its contract
618 with a district school board sponsor.

619 (b) An application to the commission or one of its
620 cosponsors by a conversion charter school other than a school
621 described in paragraph (5) (c) may ~~only~~ be submitted only upon
622 consent of the district school board. ~~In such instance,~~ The
623 district school board may retain the facilities, equipment, and
624 other assets of a the conversion charter school, including a
625 school described in paragraph (5) (c), for its own use or agree
626 to reasonable terms for their continued use by the conversion
627 charter school. If the district school board and charter school
628 cannot agree on these terms, the Department of Education shall
629 provide mediation services. If the Commissioner of Education
630 determines that the dispute cannot be settled through mediation,
631 the parties shall submit to binding arbitration under the rules
632 of the American Arbitration Association and divide the
633 arbitration fees.

634 (11) APPLICATION OF CHARTER SCHOOL STATUTE.—

635 (a) The provisions of ss. s- 1002.33(7)-(12), (14), and
636 (16)-(19) and 1002.337 shall apply to the commission and the
637 cosponsors and charter schools approved pursuant to this
638 section, except that:

5-00517-09

2009610__

639 1. The charter contract may incorporate additional criteria
640 relevant to the remedial site proposed for a FSE charter school
641 and intended to achieve important educational purposes to enable
642 the state to comply with s. 1(a), Art. IX of the State
643 Constitution according to rules adopted by the State Board of
644 Education.

645 2. The initial term of a charter contract shall be for 15
646 years. At the end of 15 years and every 5 years thereafter, a
647 district school board that does not have chronically below-
648 average or failing public schools may present a plan and apply
649 to the State Board of Education to assume without material
650 modification the sponsor's obligations and duties under the
651 charter contract and any obligations and duties with respect to
652 employees, real estate, financing, or other agreements. Teachers
653 and staff may not modify their employment agreements under such
654 assignment except as set forth in the charter contract.
655 According to its rules, the State Board of Education shall grant
656 the application if it finds that the school board's plan will
657 enable it to supervise and operate the school in a manner likely
658 to ensure that the state will comply with s. 1(a), Art. IX of
659 the State Constitution.

660 3. Each FSE charter school shall be graded pursuant to s.
661 1008.34. The charter contract of a FSE charter school that
662 receives a school grade of "D" pursuant to s. 1008.34 for 3
663 years in a 5-year period or a school grade of "F" for 2 years in
664 a 4-year period shall be automatically terminated.

665 4. For a FSE charter school that receives a school grade of
666 "D" for 3 years in a 5-year period, the commission shall solicit
667 new applications to assume the charter contract after

5-00517-09

2009610__

668 investigating the reasons for the poor performance and designing
669 application criteria meeting the remedial needs.

670 5. For an FSE school receiving a school grade of "F" for 2
671 years in a 4-year period, the State Board of Education may,
672 pursuant to rule, direct the commission to undertake the same
673 process as in subparagraph 4., invite the district school board
674 to submit a plan to supervise and operate the school in a manner
675 enabling the state to comply with s. 1(a), Art. IX of the State
676 Constitution or take such actions as are authorized in s.
677 1008.33.

678 6. An employee of an FSE school is an eligible employee as
679 defined in s. 121.4501. A FSE charter school and its employees
680 may not participate in the Florida Retirement System.

681 (b) The provisions of s. 1002.33(20) ~~shall~~ apply to the
682 commission and the cosponsors and charter schools approved
683 pursuant to this section with the exception that the commission
684 or a cosponsor of a charter school approved pursuant to this
685 section may retain as a percentage of the funding provided to
686 the charter school no more than the actual cost of its
687 administrative overhead costs expended to sponsor the charter
688 school in an amount to be negotiated between the commission and
689 cosponsor and between the sponsor and charter school ~~not to~~
690 ~~exceed 5 percent of the funding provided to the charter school.~~

691 (c) A FSE charter school that receives a school grade of
692 "A" or "B" pursuant to s. 1008.34 for at least 2 consecutive
693 years is entitled to an amount equal to 0.75 mills of the amount
694 collected under s. 199.133(1).

695 (12) ACCESS TO INFORMATION.—The commission shall provide
696 maximum access to information to all parents in the state. It

5-00517-09

2009610__

697 shall maintain information systems, including, but not limited
698 to, a user-friendly Internet website, which ~~that~~ will provide
699 information and data necessary for parents to make informed
700 decisions. At a minimum, the commission must provide parents
701 with information on its accountability standards, links to
702 schools of excellence throughout the state, and public education
703 programs available in the state.

704 (13) ANNUAL REPORT.—Each year, the chair of the commission
705 shall appear before the State Board of Education and submit a
706 report regarding the academic performance and fiscal
707 responsibility of all charter schools and cosponsors approved
708 under this section.

709 (14) IMPLEMENTATION.—The State Board of Education shall
710 adopt rules pursuant to ss. 120.536(1) and 120.54 which are
711 approved by the commission and necessary to facilitate the
712 administration ~~implementation~~ of this section.

713 Section 2. Section 1002.337, Florida Statutes, is created
714 to read:

715 1002.337 Florida Schools of Excellence.—

716 (1) (a) A school district shall make timely and efficient
717 payment and reimbursement to the commission of the funding
718 provided for in s. 1002.33(17) (d) for the charter schools
719 located in the county where the school district is located, less
720 the school district's actual administrative overhead costs
721 expended to provide these conduit services, which may not exceed
722 0.3 percent of the funding due to the charter schools within the
723 county where the school district is located.

724 (b) The Department of Education shall distribute to the
725 commission the Florida Education Finance Program (FEFP) funds

5-00517-09

2009610__

726 allocated to students enrolled in FSE charter schools under s.
727 1011.62 according to the schedule provided for in s. 1011.66.
728 Funds for instructional materials shall be distributed as
729 provided for in s. 1011.67 and funds for student transportation
730 shall be distributed as provided for in s. 1011.68. The
731 commission shall be considered a school district and have the
732 same rights and duties as specified in ss. 1011.66, 1011.67,
733 1011.68, 1011.70, and 1011.75.

734 (c)1. For a charter school sponsored by the commission, the
735 commission shall distribute funds to the charter school on the
736 basis of full-time equivalent student membership within 10
737 business days after receipt, less any administrative charge
738 authorized under s. 1002.335(11)(b) and less the retainer
739 specified in subsection (3).

740 2. For a charter school sponsored by cosponsors, the
741 commission shall distribute funds to the cosponsors on the basis
742 of full-time equivalent student membership within 7 business
743 days, less any mutually agreed administrative charge that may
744 not exceed the amount authorized under s. 1002.335(11)(b). The
745 cosponsors shall distribute funds on the basis of full-time
746 equivalent student membership to the charter schools sponsored
747 by the cosponsors within 5 business days, less the balance of
748 the administrative charge authorized under s. 1002.335(11)(b)
749 and less the retainer specified in subsection (3).

750 3. The commission or cosponsor may retain an amount set by
751 resolution of either entity, which may not exceed 10 percent of
752 the school's total annual funding, in order to ensure that the
753 charter schools comply with their charter contracts. The
754 retainer shall be paid to the charter schools no later than 30

5-00517-09

2009610__

755 days before the end of the academic year, less any setoffs
756 required by law or allowed under the charter contract. Disputes
757 about setoffs are subject to binding arbitration under the rules
758 of the American Arbitration Association, and attorney's fees and
759 costs shall be paid by the losing party.

760 (2) Funds payable to the commission and cosponsors shall be
761 deposited in an approved depository as provided by law. Each
762 bank receiving funds as provided in this section must make a
763 receipt for the deposit. For purposes of s. 1011.18, the
764 commission and cosponsors have the same rights and duties as
765 district schools and district school boards; their chairperson
766 has the same rights and duties as the district school board's
767 chair; their vice chairperson has the same rights and duties as
768 the district school board's vice chair; and their executive
769 director has the same rights and duties as the school district's
770 superintendent. The commission and cosponsors have the same
771 duties as school districts specified in s. 1010.20(1) and (2).

772 (3) (a) A school district is not required to offer special
773 instruction, facilities, or services for exceptional students,
774 instruction in English as a second language, or supplemental
775 educational services to students who are enrolled in a FSE
776 charter school as prescribed in s. 1003.57(1), s. 1003.56(3), or
777 s. 1008.331(2). A FSE charter school shall perform the functions
778 and services prescribed in ss. 1003.57(1), 1003.56(3), and
779 1008.331(2) which are not performed by the school district in
780 the county where it is located. Although remaining ultimately
781 responsible for these functions and services, a FSE charter
782 school may contract for these functions and services with a
783 school district, cosponsor, another FSE charter school, or

5-00517-09

2009610__

784 another public or private entity approved by the commission,
785 within or outside the county where the school is located. A FSE
786 charter schools may not offer special instruction, facilities,
787 or services to an exceptional student with a disability who is a
788 nonresident residing in a residential facility in this state.

789 (b) Applicants to be a FSE charter school shall explain how
790 they will provide the services specified in paragraph (a), and
791 the charter agreement with an approved applicant shall require
792 the board of directors for the charter school to post an
793 annually renewable bond that is sufficient to cover the
794 potential expense for 1 year of these services as determined by
795 resolution of the commission.

796 (c) If the parent of a child is not satisfied with his or
797 her child's progress at a FSE charter school and that child was:

798 1. Reported for funding in surveys of the Florida Education
799 Finance Program during October and February;

800 2. At least 4 years old when enrolled at the FSE charter
801 school and reported as specified in subparagraph 1.; and

802 3. Eligible for services consistent with rules adopted by
803 the State Board of Education,

804
805 That child may participate in the John M. McKay Scholarships for
806 Students with Disabilities Program as provided in s. 1002.39,
807 except as otherwise specified in s. 1002.39. For such students,
808 FSE charter schools shall undertake those duties of school
809 districts identified in s. 1002.39(5)(a)1.-2., (b), (10)(a)4.,
810 and (c). Following notification on July 1, September 1, December
811 1, or February 1 of the number of program participants, the
812 department shall transfer from general revenue funds only, the

5-00517-09

2009610__

813 amount calculated under s. 1002.39(10)(b) from the commission's
814 and cosponsors' total funding entitlement under the FEFP and
815 from authorized categorical accounts to a separate account for
816 the scholarship program for quarterly disbursement to the
817 parents of participating students.

818 (4) The commission may establish a direct-support
819 organization that is:

820 (a) A corporation not for profit that is incorporated under
821 the provisions of chapter 617 and approved by the Department of
822 State.

823 (b) Organized and operated exclusively to receive, hold,
824 invest, and administer property and to make expenditures to or
825 for the benefit of Florida Schools of Excellence and its powers
826 and duties stated in s. 1002.335(4).

827 (c) Governed by a board of directors appointed by the
828 commissioner and shall include representation from business,
829 industry, and other components of Florida's economy.

830 (d) Provide equal employment opportunities to all persons,
831 regardless of race, color, national origin, gender, age, or
832 religion.

833 (e) Subject to an annual financial audit in accordance with
834 s. 215.981.

835 (5) The commission may permit the use of property,
836 facilities, and personal services by the direct-support
837 organization, subject to such rules as the State Board of
838 Education adopts to ensure effective oversight.

839 (6) The commission, cosponsors, and FSE charter schools may
840 enter into risk-management and self-insurance programs, purchase
841 liability insurance for whatever coverage they choose, or have

5-00517-09

2009610__

842 any combination thereof, in anticipation of any claim, judgment,
843 or claim bill that they are liable to pay, as approved by the
844 commission.

845 (7) For the purposes of tort liability, the governing body
846 and employees of the commission and its cosponsors, charter
847 schools, and direct-support organization established in this
848 section are governed by s. 768.28.

849 (8) The State Board of Education shall adopt rules approved
850 by the commission which are necessary to administer this
851 section.

852 Section 3. If any provision of this act or its application
853 to any person or circumstance is held invalid, the invalidity
854 does not affect other provisions or applications of the act
855 which can be given effect without the invalid provision or
856 application, and to this end the provisions of this act are
857 severable.

858 Section 4. This act shall take effect July 1, 2009.