

1 A bill to be entitled
2 An act relating to charter schools; creating s. 1002.337,
3 F.S.; providing a short title; providing legislative
4 findings; establishing the School Grade Improvement
5 Commission, an independent, state-level commission under
6 the supervision of the State Board of Education; requiring
7 the commission to collaborate with school districts, the
8 Department of Education, and the State Board of Education
9 to support innovative charter schools when invited by a
10 school district and to develop and support remedial
11 charter schools as an alternative to public schools found
12 by the state to be chronically failing; providing for
13 funding of the commission through an existing
14 administrative fee available to charter school sponsors,
15 private contributions, federal funds, and institutional
16 grants; providing for appointment of commission members by
17 the State Board of Education based on recommendations by
18 the Governor, the President of the Senate, and the Speaker
19 of the House of Representatives; providing for member
20 terms and commission meetings; providing powers of the
21 commission, including, but not limited to, assistance in
22 the establishment of charter schools, investigation of the
23 reasons for school failure, and evaluation of the academic
24 and financial performance of charter schools; authorizing
25 a district school board to invite the commission to
26 establish a new charter school within the geographic
27 boundaries of the school district; authorizing the
28 commission to establish a remedial charter school within

29 certain school zones; authorizing agreement for the use of
30 school facilities and equipment; authorizing an existing
31 charter school to apply to the commission to change
32 sponsors under certain conditions; providing requirements
33 for application; providing that specified statutory
34 requirements apply to the commission, charter schools, and
35 school districts, with certain exceptions relating to the
36 charter contract; providing for terms of a charter
37 contract and authorizing a district school board to apply
38 to assume full control of a charter school under certain
39 conditions; providing for termination or nonrenewal of a
40 charter contract; requiring school district funding of a
41 charter school and authorizing additional funding;
42 providing requirements for deposit and investment of
43 charter school funds; requiring a school district to
44 provide administrative and educational services to a
45 charter school; providing parent rights for school
46 enrollment; authorizing the commission to establish a
47 direct-support organization that meets certain
48 requirements; authorizing the commission and charter
49 schools to provide certain insurance; providing for the
50 application of waiver of sovereign immunity provisions;
51 requiring public access to information for making informed
52 decisions; requiring annual reporting by the commission
53 and the adoption of rules by the State Board of Education;
54 providing a severability clause; providing an effective
55 date.
56

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

58
59 Section 1. Section 1002.337, Florida Statutes, is created
60 to read:

61 1002.337 Make the Grade Initiative; School Grade
62 Improvement Commission.--

63 (1) SHORT TITLE.--This section may be cited as the "Make
64 the Grade Initiative."

65 (2) FINDINGS.--The Legislature finds that:

66 (a) Special assistance for Florida's public school
67 districts is essential to improve public schools that are found
68 by the state to be chronically failing so that the schools will
69 "make the grade" and ensure that all students have access to a
70 high-quality public education.

71 (b) Charter schools are a critical component in the
72 state's efforts to provide by law for a uniform, efficient,
73 safe, secure, and high-quality system of free public schools.

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

77 (d) A student should not be compelled, against the wishes
78 of the student's parent, to remain in a public school that is
79 found by the state to be chronically failing.

80 (e) Parents of students in chronically failing schools
81 should have the choice to send their children to a successful
82 charter school in the same facility or in a nearby facility.

83 (f) School districts would benefit from an initiative
84 dedicated to improving school performance through the

HB 991

2009

85 establishment of charter schools that will succeed in the most
86 challenging circumstances.

87 (3) SCHOOL GRADE IMPROVEMENT COMMISSION.--

88 (a) The School Grade Improvement Commission is established
89 as an independent, state-level commission under the supervision
90 of the State Board of Education. The commission shall work in
91 collaboration with school districts, the Department of
92 Education, and the State Board of Education to:

93 1. Support innovative charter schools when invited to do
94 so by a school district to ensure that all of Florida's students
95 have access to a high-quality education.

96 2. Develop and support remedial charter schools as an
97 alternative to public schools that are found by the state to be
98 chronically failing.

99 (b) Funds necessary to establish and operate the
100 commission shall come from an existing administrative fee
101 available to charter school sponsors, private contributions,
102 federal funds, institutional grants through the Grants and
103 Donations Trust Fund and the Federal Grants Trust Fund housed
104 within the department, and other eligible sources. The
105 department shall assist in securing federal and other
106 institutional grant funds to establish the commission.

107 (c) The commission shall be appointed by the State Board
108 of Education and shall be composed of three appointees
109 recommended by the Governor, two appointees recommended by the
110 President of the Senate, and two appointees recommended by the
111 Speaker of the House of Representatives. The Governor, the
112 President of the Senate, and the Speaker of the House of

HB 991

2009

113 Representatives shall each recommend a list of at least two
114 nominees for each appointment to the commission. The
115 appointments shall be made as soon as feasible but no later than
116 September 1, 2009. Each member of the commission shall serve a
117 3-year term; however, for the purpose of providing staggered
118 terms, of the initial appointments, two members shall be
119 appointed to 1-year terms, two members shall be appointed to 2-
120 year terms, and the three members recommended by the Governor
121 shall be appointed to 3-year terms. Thereafter, each appointee
122 shall serve a 3-year term unless the State Board of Education,
123 after review, extends the appointment. If a vacancy occurs on
124 the commission, it shall be filled by the State Board of
125 Education from a recommendation by the appropriate authority
126 according to the procedure set forth in this paragraph. The
127 members of the commission shall annually vote to appoint a chair
128 and a vice chair. Each member of the commission must hold a
129 bachelor's degree or higher, and the commission must include
130 individuals who have experience in finance, administration, law,
131 education, and school governance.

132 (d) The commission shall meet at the call of the chair or
133 upon the request of four members of the commission. Four members
134 of the commission shall constitute a quorum. Meetings may be
135 held via teleconference or other means of telecommunications as
136 the chair directs.

137 (e) The commission shall appoint an executive director who
138 shall employ staff as is necessary to perform the administrative
139 duties and responsibilities of the commission.

HB 991

2009

140 (f) The members of the commission shall not be compensated
141 for their services on the commission but may be reimbursed for
142 per diem and travel expenses pursuant to s. 112.061.

143 (4) POWERS.--The commission shall have the power to:

144 (a) Assist in the establishment of a charter school when
145 invited by a school district or when a public school receives a
146 grade of "F," pursuant to s. 1008.34, for 3 years in a 4-year
147 period. A charter school established under this section shall
148 exist as a public school within the state as a component of the
149 delivery of public education within Florida's K-20 education
150 system.

151 (b) Investigate or cause to be investigated the reasons
152 for the chronic failure of a school and isolate those variables
153 critical to the success of a remedial charter school. The
154 commission is encouraged to draw on state universities,
155 community colleges, and think tanks to assist with an
156 investigation.

157 (c) Solicit applications from charter schools, pursuant to
158 paragraph (5) (b), that are responsive to the variables critical
159 to charter school success in the particular circumstances.

160 (d) Monitor and annually review and evaluate the academic
161 and financial performance of a charter school established under
162 this section and hold the school accountable for its performance
163 pursuant to the provisions of chapter 1008.

164 (e) Actively seek, with the assistance of the department,
165 supplemental revenue from federal grant funds, institutional
166 grant funds, and philanthropic organizations. The commission
167 may, through the department's Grants and Donations Trust Fund or

HB 991

2009

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

171 (f) Assist charter schools established under this section
172 in negotiating and contracting with district school boards and
173 vendors.

174 (g) Develop, promote, and disseminate best practices for
175 charter schools, including high standards of accountability, in
176 order to ensure that high-quality charter schools are developed
177 and incentivized throughout the state. At a minimum, the best
178 practices shall encourage the development and replication of
179 academically and financially proven charter school programs.

180 (h) Develop, promote, and require high standards of
181 accountability for any school that is granted a charter under
182 this section.

183 (i) Review and recommend to the President of the Senate
184 and the Speaker of the House of Representatives any necessary
185 revisions to statutory requirements regarding charter schools
186 and commission activities.

187 (j) Support innovative learning opportunities, such as
188 schools specially dedicated to science and mathematics.

189 (k) Provide training for members of charter school
190 governing bodies. The training shall include, but not be limited
191 to, best practices for charter school governance, the
192 constitutional and statutory requirements relating to public
193 records and meetings, and the requirements of applicable
194 statutes and State Board of Education rules.

195 (l) Undertake such other activities as set forth in law.

HB 991

2009

196 (5) CHARTERING AUTHORITY.--

197 (a) A district school board may invite the commission to
198 establish a remedial or innovative charter school within the
199 geographic boundaries of the school district by adopting a
200 district school board resolution and submitting the resolution
201 to the State Board of Education for approval. The district
202 school board and the commission may agree to reasonable terms
203 for the use of existing school facilities and equipment by the
204 charter school.

205 2. The commission may establish a remedial charter school
206 within the school zone designated by the district school board
207 the prior year for a school receiving a grade of "F," pursuant
208 to s. 1008.34, for 3 years in a 4-year period. The commission
209 shall provide at least 60 days' notice to the district school
210 board of its intent to establish a remedial charter school. The
211 district school board shall provide a financial audit of the
212 failing school in accordance with s. 218.39, accounting for all
213 sources of revenue and direct and indirect costs, within 45 days
214 after receiving the notice. At the commission's request, the
215 district school board shall agree to reasonable terms for the
216 use of school facilities and equipment by the charter school. If
217 the Commissioner of Education determines that a dispute over use
218 of facilities and equipment cannot be settled through mediation,
219 the parties shall submit to binding arbitration under the rules
220 of the American Arbitration Association and split the
221 arbitration fees.

222 (b) With the approval of the commission and upon consent
223 of the district school board, an existing charter school may

224 submit an application to the commission if the obligations of
225 its charter contract with the district school board will expire
226 prior to entering into a new charter contract with the
227 commission. A district school board may agree to rescind or
228 waive the obligations of a current charter contract to allow an
229 application to be submitted by an existing charter school
230 pursuant to this paragraph. A charter school that changes
231 sponsors pursuant to this paragraph shall be allowed to continue
232 the use of all facilities, equipment, and other assets it owned
233 or leased prior to the expiration or rescission of its charter
234 contract with the district school board.

235 (c)1. For those schools identified in paragraphs (a) and
236 (b), a charter school applicant may submit an application to the
237 commission according to an application schedule set by the
238 commission. The opportunity to establish such a charter school
239 shall be a privilege and not a right of the charter school
240 applicant.

241 2. Charter school applications submitted to the commission
242 shall be subject to the requirements set forth in s. 1002.33(6).
243 The commission shall receive and review all applications for
244 eligible charter schools according to the provisions for review
245 of charter school applications under s. 1002.33(6)(b) and any
246 application review criteria identified by the commission as
247 important to charter school success under the circumstances. The
248 criteria shall be disclosed to applicants prior to the
249 application deadline and shall have an educational purpose.

250 (6) CHARTER SCHOOL CONTRACT AND OPERATION.--The provisions
251 of s. 1002.33(7)-(12), (14), (16), (18), and (19) shall apply to

HB 991

2009

252 the commission and charter schools established under this
253 section, and the school districts shall serve and fund the
254 charter schools like any other charter school, except that:

255 (a) The charter contract shall be a three-party contract,
256 including the school district, the commission, and the school.

257 (b) The charter contract must incorporate requirements
258 relevant to the site proposed for a remedial or innovative
259 charter school intended to achieve important educational
260 purposes, as required by the commission and according to rules
261 adopted by the State Board of Education.

262 (c) The startup of a charter school established under this
263 section shall be according to the timeline established jointly
264 by the commission and district school board.

265 (d) The initial term of a charter contract shall be for 10
266 years. At the end of 10 years and every 5 years thereafter, a
267 district school board may present a plan and apply to the State
268 Board of Education to assume full control of the charter school
269 without material modification to the obligations and duties
270 under the charter contract and to any employee, real estate,
271 financing, or other agreement. Any such assignment does not
272 entitle teachers and staff to modify their employment agreements
273 except as set forth in the agreements. According to its rules,
274 the State Board of Education shall grant the application if it
275 finds that the district school board's plan will enable it to
276 supervise and operate the school in a manner likely to ensure
277 that the school will continue to receive a school grade of "B"
278 or higher.

HB 991

2009

279 (e) An employee of a charter school established under this
280 section shall be an "eligible employee" within the meaning of s.
281 121.4501(2)(f). The commission may decide whether the employees
282 of a charter school established under this section may
283 participate in the Florida Retirement System.

284 (f) All charter schools established under this section
285 shall be graded pursuant to s. 1008.34.

286 (7) TERMINATION OR NONRENEWAL.--

287 (a) The charter contract of a school established under
288 this section that receives a school grade of "D" for 3 years in
289 a 5-year period or a school grade of "F" for 2 years in a 4-year
290 period shall automatically be terminated.

291 (b) For a charter school established under this section
292 that receives a school grade of "D" for 3 years in a 5-year
293 period, the commission shall solicit new applications to assume
294 the charter contract after investigating the reasons for the
295 poor performance and tailoring the application criteria to the
296 remedial needs.

297 (c) For a charter school established under this section
298 that receives a school grade of "F" for 2 years in a 4-year
299 period, the State Board of Education may, pursuant to rule,
300 direct the commission to undertake the process outlined in
301 paragraph (b), invite the district school board to submit a plan
302 to operate and supervise the school in a manner enabling the
303 school to maintain a grade of "B" or higher, or take such
304 actions as are authorized in s. 1008.33.

305 (8) FUNDING.--

306 (a) The provisions of s. 1002.33(17) shall apply to a
 307 charter school established under this section, with the school
 308 district providing the funding to the charter school as it
 309 provides to any other charter school. In addition, a charter
 310 school established under this section may receive:

311 1. Funding from the commission's direct-support
 312 organization on such terms and conditions as decided upon by the
 313 commission.

314 2. Any additional resources available under s.
 315 1008.33(2) (a).

316 3. State and federal funds and institutional grants
 317 through the Grants and Donations Trust Fund, the Federal Grants
 318 Trust Fund, and other eligible sources.

319 4. An amount equal to 0.75 mills of the amount collected
 320 under s. 199.133(1) if the charter school receives a school
 321 grade of "A" or "B" for at least 2 consecutive years.

322 (b) The school district shall receive all but 1 percent of
 323 the administrative fee provided for in s. 1002.33(20) (a), except
 324 as otherwise agreed to between the commission and school
 325 district, up to 5 percent. The remainder of the administrative
 326 fee shall belong to the commission.

327 (c) Money payable to the commission shall be deposited in
 328 an approved depository as provided by law. Each bank receiving
 329 any school money as provided in this subsection must make a
 330 receipt for same. For purposes of s. 1011.18(2)-(6), the
 331 commission shall have the same rights and duties as district
 332 schools and district school boards, its chair shall have the
 333 same rights and duties as the district school board's chair, its

HB 991

2009

334 vice chair shall have the same rights and duties as the district
335 school board's vice chair, and its executive director shall have
336 the same rights and duties as the district school
337 superintendent.

338 (9) SERVICES.--The school district shall provide the
339 administrative and educational services to a charter school
340 established under this section as outlined in s. 1002.33(20),
341 except as otherwise agreed to between the commission and school
342 district with the approval of the department. A charter school
343 established under this section may appeal disputes relating to
344 the provision of these services by the school district to the
345 commission, which shall make a recommendation to the
346 Commissioner of Education, following the same appeal procedure
347 set forth in s. 1002.33(6)(f) for the Charter School Appeal
348 Commission.

349 (10) PARENT RIGHTS.--A parent whose child is enrolled at a
350 school that is found by the state to be chronically failing may
351 enroll his or her child in another district school of his or her
352 choice or in a remedial charter school. A parent does not have
353 an entitlement under state law to free transportation to the
354 charter school unless it is located in the same building as the
355 chronically failing school.

356 (11) DIRECT-SUPPORT ORGANIZATION.--

357 (a) The commission may establish a direct-support
358 organization, which shall:

359 1. Be a corporation not for profit that is incorporated
360 under the provisions of chapter 617 and approved by the
361 Department of State.

362 2. Be organized and operated exclusively to receive, hold,
 363 invest, and administer property and to make expenditures to or
 364 for the benefit of the commission and its powers and duties
 365 relating to charter schools.

366 3. Be governed by a board of directors appointed by the
 367 Commissioner of Education and include representation from
 368 business, industry, and other components of the state's economy.

369 4. Provide equal employment opportunities to all persons,
 370 regardless of race, color, national origin, sex, age, or
 371 religion.

372 5. Be subject to an annual financial audit in accordance
 373 with s. 215.981.

374 (b) The commission may permit the use of property,
 375 facilities, and personal services by the direct-support
 376 organization, subject to rules adopted by the State Board of
 377 Education to ensure effective oversight.

378 (12) INSURANCE.--The commission and charter schools
 379 established by the commission may enter into risk management and
 380 self-insurance programs or purchase liability insurance for
 381 whatever coverage they may choose, or to have any combination
 382 thereof, in anticipation of any claim or judgment for which they
 383 may be liable, as approved by the commission.

384 (13) LIABILITY.--For the purposes of tort liability, the
 385 governing bodies and employees of the commission, charter
 386 schools, and direct-support organization established under this
 387 section shall be governed by s. 768.28.

388 (14) ACCESS TO INFORMATION.--The commission shall provide
 389 maximum access to information to all parents in the state. It

HB 991

2009

390 shall maintain information systems, including, but not limited
391 to, a user-friendly Internet website, that will provide
392 information and data necessary for parents to make informed
393 decisions. At a minimum, the commission must provide parents
394 with information on its accountability standards, links to
395 charter schools established under this section throughout the
396 state, and public education programs available in the state.

397 (15) ANNUAL REPORT.--Each year, the chair of the
398 commission shall appear before the State Board of Education and
399 submit a report regarding the academic performance and fiscal
400 responsibility of charter schools established under this
401 section.

402 (16) IMPLEMENTATION.--The State Board of Education shall
403 adopt rules pursuant to ss. 120.536(1) and 120.54 that have been
404 approved by the commission and are necessary to facilitate the
405 implementation of this section.

406 Section 2. If any provision of this act or the application
407 thereof to any person or circumstance is held invalid, the
408 invalidity shall not affect other provisions or applications of
409 the act which can be given effect without the invalid provision
410 or application, and to this end the provisions of this act are
411 declared severable.

412 Section 3. This act shall take effect July 1, 2009.