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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SEN1/C
04/30/2013 03:25 PM	.	05/02/2013 10:45 AM
	.	

Senator Legg moved the following:

Senate Amendment (with title amendment)

Delete lines 67 - 634

and insert:

Section 1. Paragraph (b) of subsection (5), paragraphs (b), (c), and (h) of subsection (6), paragraphs (a) and (c) of subsection (7), and paragraph (a) of subsection (8) of section 1002.33, Florida Statutes, are amended, to read:

1002.33 Charter schools.—

(5) SPONSOR; DUTIES.—

(b) *Sponsor duties*.—

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



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14 charter.

15 b. The sponsor shall monitor the revenues and expenditures
16 of the charter school and perform the duties provided in s.
17 1002.345.

18 c. The sponsor may approve a charter for a charter school
19 before the applicant has identified space, equipment, or
20 personnel, if the applicant indicates approval is necessary for
21 it to raise working funds.

22 d. The sponsor ~~sponsor's policies~~ shall not apply its
23 policies to a charter school unless mutually agreed to by both
24 the sponsor and the charter school. If the sponsor subsequently
25 amends any agreed-upon sponsor policy, the version of the policy
26 in effect at the time of the execution of the charter, or any
27 subsequent modification thereof, shall remain in effect and the
28 sponsor may not hold the charter school responsible for any
29 provision of a newly revised policy until the revised policy is
30 mutually agreed upon.

31 e. The sponsor shall ensure that the charter is innovative
32 and consistent with the state education goals established by s.
33 1000.03(5).

34 f. The sponsor shall ensure that the charter school
35 participates in the state's education accountability system. If
36 a charter school falls short of performance measures included in
37 the approved charter, the sponsor shall report such shortcomings
38 to the Department of Education.

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



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

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

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

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

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

55 (A) The number of draft applications received on or before
56 May 1 and each applicant's contact information.

57 (B) The number of final applications received on or before
58 August 1 and each applicant's contact information.

59 (C) The date each application was approved, denied, or
60 withdrawn.

61 (D) The date each final contract was executed.

62 (II) Beginning August 31, 2013, and each year thereafter,
63 the sponsor shall submit to the department the information for
64 the applications submitted the previous year.

65 (III) The department shall compile an annual report, by
66 district, and post the report on its website by November 1 of
67 each year.

68 2. Immunity for the sponsor of a charter school under
69 subparagraph 1. applies only with respect to acts or omissions
70 not under the sponsor's direct authority as described in this
71 section.



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72 3. This paragraph does not waive a district school board's
73 sovereign immunity.

74 4. A Florida College System institution may work with the
75 school district or school districts in its designated service
76 area to develop charter schools that offer secondary education.
77 These charter schools must include an option for students to
78 receive an associate degree upon high school graduation. If a
79 Florida College System institution operates an approved teacher
80 preparation program under s. 1004.04 or s. 1004.85, the
81 institution may operate no more than one charter school that
82 serves students in kindergarten through grade 12. In
83 kindergarten through grade 8, the charter school shall implement
84 innovative blended learning instructional models in which, for a
85 given course, a student learns in part through online delivery
86 of content and instruction with some element of student control
87 over time, place, path, or pace and in part at a supervised
88 brick-and-mortar location away from home. A student in a blended
89 learning course must be a full-time student of the charter
90 school and receive the online instruction in a classroom setting
91 at the charter school. District school boards shall cooperate
92 with and assist the Florida College System institution on the
93 charter application. Florida College System institution
94 applications for charter schools are not subject to the time
95 deadlines outlined in subsection (6) and may be approved by the
96 district school board at any time during the year. Florida
97 College System institutions may not report FTE for any students
98 who receive FTE funding through the Florida Education Finance
99 Program.

100 5. A school district may enter into nonexclusive interlocal



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101 agreements with federal and state agencies, counties,
102 municipalities, and other governmental entities that operate
103 within the geographical borders of the school district to act on
104 behalf of such governmental entities in the inspection,
105 issuance, and other necessary activities for all necessary
106 permits, licenses, and other permissions that a charter school
107 needs in order for development, construction, or operation. A
108 charter school may use, but may not be required to use, a school
109 district for these services. The interlocal agreement must
110 include, but need not be limited to, the identification of fees
111 that charter schools will be charged for such services. The fees
112 must consist of the governmental entity's fees plus a fee for
113 the school district to recover no more than actual costs for
114 providing such services. These services and fees are not
115 included within the services to be provided pursuant to
116 subsection (20).

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

119 (b) A sponsor shall receive and review all applications for
120 a charter school using an evaluation instrument developed by the
121 Department of Education. A sponsor shall receive and consider
122 charter school applications received on or before August 1 of
123 each calendar year for charter schools to be opened at the
124 beginning of the school district's next school year, or to be
125 opened at a time agreed to by the applicant and the sponsor. A
126 sponsor may not refuse to receive a charter school application
127 submitted before August 1 and may receive an application
128 submitted ~~applications~~ later than August 1 ~~this date~~ if it
129 chooses. In order to facilitate greater collaboration in the



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130 application process, an applicant may submit a draft charter
131 school application on or before May 1 with an application fee of
132 \$500. If a draft application is timely submitted, the sponsor
133 shall review and provide feedback as to material deficiencies in
134 the application by July 1. The applicant shall then have until
135 August 1 to resubmit a revised and final application. The
136 sponsor may approve the draft application. A sponsor may not
137 charge an applicant for a charter any fee for the processing or
138 consideration of an application, and a sponsor may not base its
139 consideration or approval of a final an application upon the
140 promise of future payment of any kind. Before approving or
141 denying any final application, the sponsor shall allow the
142 applicant, upon receipt of written notification, at least 7
143 calendar days to make technical or nonsubstantive corrections
144 and clarifications, including, but not limited to, corrections
145 of grammatical, typographical, and like errors or missing
146 signatures, if such errors are identified by the sponsor as
147 cause to deny the final application.

148 1. In order to facilitate an accurate budget projection
149 process, a sponsor shall be held harmless for FTE students who
150 are not included in the FTE projection due to approval of
151 charter school applications after the FTE projection deadline.
152 In a further effort to facilitate an accurate budget projection,
153 within 15 calendar days after receipt of a charter school
154 application, a sponsor shall report to the Department of
155 Education the name of the applicant entity, the proposed charter
156 school location, and its projected FTE.

157 2. In order to ensure fiscal responsibility, an application
158 for a charter school shall include a full accounting of expected



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159 assets, a projection of expected sources and amounts of income,
160 including income derived from projected student enrollments and
161 from community support, and an expense projection that includes
162 full accounting of the costs of operation, including start-up
163 costs.

164 3.a. A sponsor shall by a majority vote approve or deny an
165 application no later than 60 calendar days after the application
166 is received, unless the sponsor and the applicant mutually agree
167 in writing to temporarily postpone the vote to a specific date,
168 at which time the sponsor shall by a majority vote approve or
169 deny the application. If the sponsor fails to act on the
170 application, an applicant may appeal to the State Board of
171 Education as provided in paragraph (c). If an application is
172 denied, the sponsor shall, within 10 calendar days after such
173 denial, articulate in writing the specific reasons, based upon
174 good cause, supporting its denial of the charter application and
175 shall provide the letter of denial and supporting documentation
176 to the applicant and to the Department of Education.

177 b. An application submitted by a high-performing charter
178 school identified pursuant to s. 1002.331 may be denied by the
179 sponsor only if the sponsor demonstrates by clear and convincing
180 evidence that:

181 (I) The application does not materially comply with the
182 requirements in paragraph (a);

183 (II) The charter school proposed in the application does
184 not materially comply with the requirements in paragraphs
185 (9) (a) - (f);

186 (III) The proposed charter school's educational program
187 does not substantially replicate that of the applicant or one of



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188 the applicant's high-performing charter schools;

189 (IV) The applicant has made a material misrepresentation or
190 false statement or concealed an essential or material fact
191 during the application process; or

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

195

196 Material noncompliance is a failure to follow requirements or a
197 violation of prohibitions applicable to charter school
198 applications, which failure is quantitatively or qualitatively
199 significant either individually or when aggregated with other
200 noncompliance. An applicant is considered to be replicating a
201 high-performing charter school if the proposed school is
202 substantially similar to at least one of the applicant's high-
203 performing charter schools and the organization or individuals
204 involved in the establishment and operation of the proposed
205 school are significantly involved in the operation of replicated
206 schools.

207 c. If the sponsor denies an application submitted by a
208 high-performing charter school, the sponsor must, within 10
209 calendar days after such denial, state in writing the specific
210 reasons, based upon the criteria in sub-subparagraph b.,
211 supporting its denial of the application and must provide the
212 letter of denial and supporting documentation to the applicant
213 and to the Department of Education. The applicant may appeal the
214 sponsor's denial of the application directly to the State Board
215 of Education pursuant to sub-subparagraph (c)3.b.

216 4. For budget projection purposes, the sponsor shall report



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217 to the Department of Education the approval or denial of a
218 charter application within 10 calendar days after such approval
219 or denial. In the event of approval, the report to the
220 Department of Education shall include the final projected FTE
221 for the approved charter school.

222 5. Upon approval of a charter application, the initial
223 startup shall commence with the beginning of the public school
224 calendar for the district in which the charter is granted unless
225 the sponsor allows a waiver of this subparagraph for good cause.

226 (c)1. An applicant may appeal any denial of that
227 applicant's application or failure to act on an application to
228 the State Board of Education no later than 30 calendar days
229 after receipt of the sponsor's decision or failure to act and
230 shall notify the sponsor of its appeal. Any response of the
231 sponsor shall be submitted to the State Board of Education
232 within 30 calendar days after notification of the appeal. Upon
233 receipt of notification from the State Board of Education that a
234 charter school applicant is filing an appeal, the Commissioner
235 of Education shall convene a meeting of the Charter School
236 Appeal Commission to study and make recommendations to the State
237 Board of Education regarding its pending decision about the
238 appeal. The commission shall forward its recommendation to the
239 state board at least no later than 7 calendar days before ~~prior~~
240 ~~to~~ the date on which the appeal is to be heard. An appeal
241 regarding the denial of an application submitted by a high-
242 performing charter school pursuant to s. 1002.331 shall be
243 conducted by the State Board of Education in accordance with
244 this paragraph, except that the commission shall not convene to
245 make recommendations regarding the appeal. However, the



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246 Commissioner of Education shall review the appeal and make a
247 recommendation to the state board.

248 2. The Charter School Appeal Commission or, in the case of
249 an appeal regarding an application submitted by a high-
250 performing charter school, the State Board of Education may
251 reject an appeal submission for failure to comply with
252 procedural rules governing the appeals process. The rejection
253 shall describe the submission errors. The appellant shall have
254 15 calendar days after notice of rejection in which to resubmit
255 an appeal that meets the requirements set forth in State Board
256 of Education rule. An appeal submitted subsequent to such
257 rejection is considered timely if the original appeal was filed
258 within 30 calendar days after receipt of notice of the specific
259 reasons for the sponsor's denial of the charter application.

260 3.a. The State Board of Education shall by majority vote
261 accept or reject the decision of the sponsor no later than 90
262 calendar days after an appeal is filed in accordance with State
263 Board of Education rule. The State Board of Education shall
264 remand the application to the sponsor with its written decision
265 that the sponsor approve or deny the application. The sponsor
266 shall implement the decision of the State Board of Education.
267 The decision of the State Board of Education is not subject to
268 the provisions of the Administrative Procedure Act, chapter 120.

269 b. If an appeal concerns an application submitted by a
270 high-performing charter school identified pursuant to s.
271 1002.331, the State Board of Education shall determine whether
272 the sponsor has shown, by clear and convincing evidence, that:

273 (I) The application does not materially comply with the
274 requirements in paragraph (a);



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275 (II) The charter school proposed in the application does
276 not materially comply with the requirements in paragraphs
277 (9) (a) - (f);

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

281 (IV) The applicant has made a material misrepresentation or
282 false statement or concealed an essential or material fact
283 during the application process; or

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

287
288 The State Board of Education shall approve or reject the
289 sponsor's denial of an application no later than 90 calendar
290 days after an appeal is filed in accordance with State Board of
291 Education rule. The State Board of Education shall remand the
292 application to the sponsor with its written decision that the
293 sponsor approve or deny the application. The sponsor shall
294 implement the decision of the State Board of Education. The
295 decision of the State Board of Education is not subject to the
296 Administrative Procedure Act, chapter 120.

297 (h) The terms and conditions for the operation of a charter
298 school shall be set forth by the sponsor and the applicant in a
299 written contractual agreement, called a charter. The sponsor may
300 ~~shall~~ not impose unreasonable rules or regulations that violate
301 the intent of giving charter schools greater flexibility to meet
302 educational goals. The sponsor has 30 ~~shall have 60~~ days after
303 approval of the application to provide an initial proposed



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304 charter contract to the charter school. The applicant and the
305 sponsor have 40 ~~shall have 75~~ days thereafter to negotiate and
306 notice the charter contract for final approval by the sponsor
307 unless both parties agree to an extension. The proposed charter
308 contract shall be provided to the charter school at least 7
309 calendar days prior to the date of the meeting at which the
310 charter is scheduled to be voted upon by the sponsor. The
311 Department of Education shall provide mediation services for any
312 dispute regarding this section subsequent to the approval of a
313 charter application and for any dispute relating to the approved
314 charter, except disputes regarding charter school application
315 denials. If the Commissioner of Education determines that the
316 dispute cannot be settled through mediation, the dispute may be
317 appealed to an administrative law judge appointed by the
318 Division of Administrative Hearings. The administrative law
319 judge has final order authority to ~~may~~ rule on issues of
320 equitable treatment of the charter school as a public school,
321 whether proposed provisions of the charter violate the intended
322 flexibility granted charter schools by statute, or on any other
323 matter regarding this section except a charter school
324 application denial, a charter termination, or a charter
325 nonrenewal and shall award the prevailing party reasonable
326 attorney's fees and costs incurred to be paid by the losing
327 party. The costs of the administrative hearing shall be paid by
328 the party whom the administrative law judge rules against.

329 (7) CHARTER.—The major issues involving the operation of a
330 charter school shall be considered in advance and written into
331 the charter. The charter shall be signed by the governing board
332 of the charter school and the sponsor, following a public



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333 hearing to ensure community input.

334 (a) The charter shall address and criteria for approval of
335 the charter shall be based on:

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

338 2. The focus of the curriculum, the instructional methods
339 to be used, any distinctive instructional techniques to be
340 employed, and identification and acquisition of appropriate
341 technologies needed to improve educational and administrative
342 performance which include a means for promoting safe, ethical,
343 and appropriate uses of technology which comply with legal and
344 professional standards.

345 a. The charter shall ensure that reading is a primary focus
346 of the curriculum and that resources are provided to identify
347 and provide specialized instruction for students who are reading
348 below grade level. The curriculum and instructional strategies
349 for reading must be consistent with the Next Generation Sunshine
350 State Standards and grounded in scientifically based reading
351 research.

352 b. In order to provide students with access to diverse
353 instructional delivery models, to facilitate the integration of
354 technology within traditional classroom instruction, and to
355 provide students with the skills they need to compete in the
356 21st century economy, the Legislature encourages instructional
357 methods for blended learning courses consisting of both
358 traditional classroom and online instructional techniques.
359 Charter schools may implement blended learning courses which
360 combine traditional classroom instruction and virtual
361 instruction. Students in a blended learning course must be full-



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362 time students of the charter school and receive the online
363 instruction in a classroom setting at the charter school.
364 Instructional personnel certified pursuant to s. 1012.55 who
365 provide virtual instruction for blended learning courses may be
366 employees of the charter school or may be under contract to
367 provide instructional services to charter school students. At a
368 minimum, such instructional personnel must hold an active state
369 or school district adjunct certification under s. 1012.57 for
370 the subject area of the blended learning course. The funding and
371 performance accountability requirements for blended learning
372 courses are the same as those for traditional courses.

373 3. The current incoming baseline standard of student
374 academic achievement, the outcomes to be achieved, and the
375 method of measurement that will be used. The criteria listed in
376 this subparagraph shall include a detailed description of:

377 a. How the baseline student academic achievement levels and
378 prior rates of academic progress will be established.

379 b. How these baseline rates will be compared to rates of
380 academic progress achieved by these same students while
381 attending the charter school.

382 c. To the extent possible, how these rates of progress will
383 be evaluated and compared with rates of progress of other
384 closely comparable student populations.

385
386 The district school board is required to provide academic
387 student performance data to charter schools for each of their
388 students coming from the district school system, as well as
389 rates of academic progress of comparable student populations in
390 the district school system.



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391 4. The methods used to identify the educational strengths
392 and needs of students and how well educational goals and
393 performance standards are met by students attending the charter
394 school. The methods shall provide a means for the charter school
395 to ensure accountability to its constituents by analyzing
396 student performance data and by evaluating the effectiveness and
397 efficiency of its major educational programs. Students in
398 charter schools shall, at a minimum, participate in the
399 statewide assessment program created under s. 1008.22.

400 5. In secondary charter schools, a method for determining
401 that a student has satisfied the requirements for graduation in
402 s. 1003.428, s. 1003.429, or s. 1003.43.

403 6. A method for resolving conflicts between the governing
404 board of the charter school and the sponsor.

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

407 8. The ways by which the school will achieve a
408 racial/ethnic balance reflective of the community it serves or
409 within the racial/ethnic range of other public schools in the
410 same school district.

411 9. The financial and administrative management of the
412 school, including a reasonable demonstration of the professional
413 experience or competence of those individuals or organizations
414 applying to operate the charter school or those hired or
415 retained to perform such professional services and the
416 description of clearly delineated responsibilities and the
417 policies and practices needed to effectively manage the charter
418 school. A description of internal audit procedures and
419 establishment of controls to ensure that financial resources are



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420 properly managed must be included. Both public sector and
421 private sector professional experience shall be equally valid in
422 such a consideration.

423 10. The asset and liability projections required in the
424 application which are incorporated into the charter and shall be
425 compared with information provided in the annual report of the
426 charter school.

427 11. A description of procedures that identify various risks
428 and provide for a comprehensive approach to reduce the impact of
429 losses; plans to ensure the safety and security of students and
430 staff; plans to identify, minimize, and protect others from
431 violent or disruptive student behavior; and the manner in which
432 the school will be insured, including whether or not the school
433 will be required to have liability insurance, and, if so, the
434 terms and conditions thereof and the amounts of coverage.

435 12. The term of the charter which shall provide for
436 cancellation of the charter if insufficient progress has been
437 made in attaining the student achievement objectives of the
438 charter and if it is not likely that such objectives can be
439 achieved before expiration of the charter. The initial term of a
440 charter shall be for 4 or 5 years. In order to facilitate access
441 to long-term financial resources for charter school
442 construction, charter schools that are operated by a
443 municipality or other public entity as provided by law are
444 eligible for up to a 15-year charter, subject to approval by the
445 district school board. A charter lab school is eligible for a
446 charter for a term of up to 15 years. In addition, to facilitate
447 access to long-term financial resources for charter school
448 construction, charter schools that are operated by a private,



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449 not-for-profit, s. 501(c)(3) status corporation are eligible for
450 up to a 15-year charter, subject to approval by the district
451 school board. Such long-term charters remain subject to annual
452 review and may be terminated during the term of the charter, but
453 only according to the provisions set forth in subsection (8).

454 13. The facilities to be used and their location. The
455 sponsor may not require a charter school to have a certificate
456 of occupancy or a temporary certificate of occupancy for such a
457 facility earlier than 15 calendar days before the first day of
458 school.

459 14. The qualifications to be required of the teachers and
460 the potential strategies used to recruit, hire, train, and
461 retain qualified staff to achieve best value.

462 15. The governance structure of the school, including the
463 status of the charter school as a public or private employer as
464 required in paragraph (12)(i).

465 16. A timetable for implementing the charter which
466 addresses the implementation of each element thereof and the
467 date by which the charter shall be awarded in order to meet this
468 timetable.

469 17. In the case of an existing public school that is being
470 converted to charter status, alternative arrangements for
471 current students who choose not to attend the charter school and
472 for current teachers who choose not to teach in the charter
473 school after conversion in accordance with the existing
474 collective bargaining agreement or district school board rule in
475 the absence of a collective bargaining agreement. However,
476 alternative arrangements shall not be required for current
477 teachers who choose not to teach in a charter lab school, except



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478 as authorized by the employment policies of the state university
479 which grants the charter to the lab school.

480 18. Full disclosure of the identity of all relatives
481 employed by the charter school who are related to the charter
482 school owner, president, chairperson of the governing board of
483 directors, superintendent, governing board member, principal,
484 assistant principal, or any other person employed by the charter
485 school who has equivalent decisionmaking authority. For the
486 purpose of this subparagraph, the term "relative" means father,
487 mother, son, daughter, brother, sister, uncle, aunt, first
488 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
489 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
490 stepfather, stepmother, stepson, stepdaughter, stepbrother,
491 stepsister, half brother, or half sister.

492 19. Implementation of the activities authorized under s.
493 1002.331 by the charter school when it satisfies the eligibility
494 requirements for a high-performing charter school. A high-
495 performing charter school shall notify its sponsor in writing by
496 March 1 if it intends to increase enrollment or expand grade
497 levels the following school year. The written notice shall
498 specify the amount of the enrollment increase and the grade
499 levels that will be added, as applicable.

500 (c) A charter may be modified during its initial term or
501 any renewal term upon the recommendation of the sponsor or the
502 charter school's governing board and the approval of both
503 parties to the agreement. Modification may include, but is not
504 limited to, consolidation of multiple charters into a single
505 charter if the charters are operated under the same governing
506 board and physically located on the same campus, regardless of



507 the renewal cycle.

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

509 (a) The sponsor shall make student academic achievement for
510 all students the most important factor when determining whether
511 to renew or terminate the charter. The sponsor may also choose
512 not to renew or may terminate the charter for any of the
513 following grounds:

514 1. Failure to participate in the state's education
515 accountability system created in s. 1008.31, as required in this
516 section, or failure to meet the requirements for student
517 performance stated in the charter.

518 2. Failure to meet generally accepted standards of fiscal
519 management.

520 3. Violation of law.

521 4. Other good cause shown.

522

523 ===== T I T L E A M E N D M E N T =====

524 And the title is amended as follows:

525 Delete lines 2 - 26

526 and insert:

527 An act relating to education; amending s. 1002.33,
528 F.S.; clarifying enforcement of policies agreed to by
529 the sponsor and charter school which are subsequently
530 amended; requiring a charter school sponsor to submit
531 an annual report that includes specified information;
532 authorizing a charter school operated by a Florida
533 College System institution to serve students in
534 kindergarten through grade 12 if certain criteria are
535 met; authorizing a school district to enter into



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536 certain interlocal agreements and authorizing charter
537 schools to use the school district for certain related
538 services; revising provisions relating to the timely
539 submission of charter school applications; providing
540 requirements relating to the appeal of a denied
541 application submitted by a high-performing charter
542 school; prohibiting a sponsor from requiring a charter
543 school to have a certificate of occupancy before the
544 first day of school or to identify the students who
545 will be enrolled; providing for modification of a
546 charter; requiring a sponsor to make student academic
547 achievement for all students a priority in deciding
548 whether to renew a charter; revising the