

By Senator Simmons

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1 A bill to be entitled
2 An act relating to charter schools; amending s.
3 1002.33, F.S.; revising the requirements of charter
4 school applications regarding the submission of
5 detailed financial information and annual employee
6 compensation; requiring a charter school application
7 to demonstrate that the applicant is financially
8 capable and qualified to open, operate, and maintain a
9 high-quality charter school; revising the requirements
10 of a charter to include a requirement that the charter
11 school comply with applicable law, its
12 representations, and agreements provided in the
13 application for the charter school; requiring a
14 charter to set forth a program of reporting by the
15 charter school and review by the sponsor of the
16 financial operations of the charter school; requiring
17 the term of a charter to provide for cancellation of
18 the charter under certain circumstances; revising the
19 grounds in which a sponsor may choose not to renew or
20 terminate a charter; defining the term "welfare" as it
21 relates to the termination of a charter; authorizing a
22 governing board of a charter school, with the consent
23 of the sponsor, to choose a corrective action if the
24 charter school receives certain failing grades;
25 providing that a charter school system is designated
26 as a local educational agency solely for the purpose
27 of receiving federal funds in the same manner as if
28 the charter school system were a school district if
29 the charter school system meets certain requirements;

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30 providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Paragraphs (a) and (b) of subsection (6),
35 paragraph (a) of subsection (7), paragraphs (a) and (d) of
36 subsection (8), paragraph (n) of subsection (9), and subsection
37 (25) of section 1002.33, Florida Statutes, are amended to read:

38 1002.33 Charter schools.—

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

41 (a) A person or entity wishing to open a charter school
42 shall prepare and submit an application on a model application
43 form prepared by the Department of Education which:

44 1. Demonstrates how the school will use the guiding
45 principles and meet the statutorily defined purpose of a charter
46 school.

47 2. Provides a detailed curriculum plan that illustrates how
48 students will be provided services to attain the Sunshine State
49 Standards.

50 3. Contains goals and objectives for improving student
51 learning and measuring that improvement. These goals and
52 objectives must indicate how much academic improvement students
53 are expected to show each year, how success will be evaluated,
54 and the specific results to be attained through instruction.

55 4. Describes the reading curriculum and differentiated
56 strategies that will be used for students reading at grade level
57 or higher and a separate curriculum and strategies for students
58 who are reading below grade level. A sponsor shall deny a

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59 charter if the school does not propose a reading curriculum that
60 is consistent with effective teaching strategies that are
61 grounded in scientifically based reading research.

62 5. Contains an annual financial plan for each year
63 requested by the charter for operation of the school for up to 5
64 years and provides detailed financial information evidencing
65 that the applicant is financially qualified and capable of
66 opening, operating, and maintaining a high-quality charter
67 school in accordance with the applicant's plan and applicable
68 law. This plan must contain anticipated fund balances based on
69 revenue projections, a spending plan based on projected revenues
70 and expenses, including annual compensation to all employees,
71 and a description of controls that will safeguard finances and
72 projected enrollment trends.

73 6. Documents that the applicant has participated in the
74 training required in subparagraph (f)2. A sponsor may require an
75 applicant to provide additional information as an addendum to
76 the charter school application described in this paragraph.

77 7. For the establishment of a virtual charter school,
78 documents that the applicant has contracted with a provider of
79 virtual instruction services pursuant to s. 1002.45(1)(d).

80 (b) A sponsor shall receive and review all applications for
81 a charter school using an evaluation instrument developed by the
82 Department of Education and in compliance with this section. A
83 sponsor shall receive and consider charter school applications
84 received on or before August 1 of each calendar year for charter
85 schools to be opened at the beginning of the school district's
86 next school year, or to be opened at a time agreed to by the
87 applicant and the sponsor. A sponsor may receive applications

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88 later than this date if it chooses. A sponsor may not charge an
89 applicant for a charter any fee for the processing or
90 consideration of an application, and a sponsor may not base its
91 consideration or approval of an application upon the promise of
92 future payment of any kind. Before approving or denying any
93 application, the sponsor shall allow the applicant, upon receipt
94 of written notification, at least 7 calendar days to make
95 technical or nonsubstantive corrections and clarifications,
96 including, but not limited to, corrections of grammatical,
97 typographical, and like errors or missing signatures, if such
98 errors are identified by the sponsor as cause to deny the
99 application.

100 1. In order to facilitate an accurate budget projection
101 process, a sponsor shall be held harmless for FTE students who
102 are not included in the FTE projection due to approval of
103 charter school applications after the FTE projection deadline.
104 In a further effort to facilitate an accurate budget projection,
105 within 15 calendar days after receipt of a charter school
106 application, a sponsor shall report to the Department of
107 Education the name of the applicant entity, the proposed charter
108 school location, and its projected FTE.

109 2. In order to ensure fiscal responsibility, an application
110 for a charter school shall include a full accounting of expected
111 assets, a projection of expected sources and amounts of income,
112 including income derived from projected student enrollments and
113 from community support, and an expense projection that includes
114 full accounting of the costs of operation, including start-up
115 costs. The application must evidence that the applicant is
116 financially capable and qualified to open, operate, and maintain

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117 a high-quality charter school in accordance with the applicant's
118 plan and applicable law.

119 3.a. A sponsor shall by a majority vote approve or deny an
120 application no later than 60 calendar days after the application
121 is received, unless the sponsor and the applicant mutually agree
122 in writing to temporarily postpone the vote to a specific date,
123 at which time the sponsor shall by a majority vote approve or
124 deny the application. If the sponsor fails to act on the
125 application, an applicant may appeal to the State Board of
126 Education as provided in paragraph (c). If an application is
127 denied, the sponsor shall, within 10 calendar days after such
128 denial, articulate in writing the specific reasons, based upon
129 good cause, supporting its denial of the charter application and
130 shall provide the letter of denial and supporting documentation
131 to the applicant and to the Department of Education.

132 b. An application submitted by a high-performing charter
133 school identified pursuant to s. 1002.331 may be denied by the
134 sponsor only if the sponsor demonstrates by clear and convincing
135 evidence that:

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

138 (II) The charter school proposed in the application does
139 not materially comply with the requirements in paragraphs
140 (9) (a) - (f);

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

144 (IV) The applicant has made a material misrepresentation or
145 false statement or concealed an essential or material fact

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146 during the application process; or

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

150

151 Material noncompliance is a failure to follow requirements or a
152 violation of prohibitions applicable to charter school
153 applications, which failure is quantitatively or qualitatively
154 significant either individually or when aggregated with other
155 noncompliance. An applicant is considered to be replicating a
156 high-performing charter school if the proposed school is
157 substantially similar to at least one of the applicant's high-
158 performing charter schools and the organization or individuals
159 involved in the establishment and operation of the proposed
160 school are significantly involved in the operation of replicated
161 schools.

162 c. If the sponsor denies an application submitted by a
163 high-performing charter school, the sponsor must, within 10
164 calendar days after such denial, state in writing the specific
165 reasons, based upon the criteria in sub-subparagraph b.,
166 supporting its denial of the application and must provide the
167 letter of denial and supporting documentation to the applicant
168 and to the Department of Education. The applicant may appeal the
169 sponsor's denial of the application directly to the State Board
170 of Education pursuant to sub-subparagraph (c)3.b.

171 4. For budget projection purposes, the sponsor shall report
172 to the Department of Education the approval or denial of a
173 charter application within 10 calendar days after such approval
174 or denial. In the event of approval, the report to the

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175 Department of Education shall include the final projected FTE
176 for the approved charter school.

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

181 (7) CHARTER.—The major issues involving the operation of a
182 charter school shall be considered in advance and written into
183 the charter. The charter shall be signed by the governing board
184 of the charter school and the sponsor, following a public
185 hearing to ensure community input.

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

188 1. The school's mission, the students to be served, ~~and~~ the
189 ages and grades to be included, and the requirement that the
190 charter school comply with applicable law, its representations,
191 and agreements that are outlined in its application that was
192 approved by the sponsor.

193 2. The focus of the curriculum, the instructional methods
194 to be used, any distinctive instructional techniques to be
195 employed, and identification and acquisition of appropriate
196 technologies needed to improve educational and administrative
197 performance which include a means for promoting safe, ethical,
198 and appropriate uses of technology which comply with legal and
199 professional standards.

200 a. The charter shall ensure that reading is a primary focus
201 of the curriculum and that resources are provided to identify
202 and provide specialized instruction for students who are reading
203 below grade level. The curriculum and instructional strategies

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204 for reading must be consistent with the Sunshine State Standards
205 and grounded in scientifically based reading research.

206 b. In order to provide students with access to diverse
207 instructional delivery models, to facilitate the integration of
208 technology within traditional classroom instruction, and to
209 provide students with the skills they need to compete in the
210 21st century economy, the Legislature encourages instructional
211 methods for blended learning courses consisting of both
212 traditional classroom and online instructional techniques.
213 Charter schools may implement blended learning courses which
214 combine traditional classroom instruction and virtual
215 instruction. Students in a blended learning course must be full-
216 time students of the charter school and receive the online
217 instruction in a classroom setting at the charter school.
218 Instructional personnel certified pursuant to s. 1012.55 who
219 provide virtual instruction for blended learning courses may be
220 employees of the charter school or may be under contract to
221 provide instructional services to charter school students. At a
222 minimum, such instructional personnel must hold an active state
223 or school district adjunct certification under s. 1012.57 for
224 the subject area of the blended learning course. The funding and
225 performance accountability requirements for blended learning
226 courses are the same as those for traditional courses.

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

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

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233 b. How these baseline rates will be compared to rates of
234 academic progress achieved by these same students while
235 attending the charter school.

236 c. To the extent possible, how these rates of progress will
237 be evaluated and compared with rates of progress of other
238 closely comparable student populations.

239

240 The district school board is required to provide academic
241 student performance data to charter schools for each of their
242 students coming from the district school system, as well as
243 rates of academic progress of comparable student populations in
244 the district school system.

245 4. The methods used to identify the educational strengths
246 and needs of students and how well educational goals and
247 performance standards are met by students attending the charter
248 school. The methods shall provide a means for the charter school
249 to ensure accountability to its constituents by analyzing
250 student performance data and by evaluating the effectiveness and
251 efficiency of its major educational programs. Students in
252 charter schools shall, at a minimum, participate in the
253 statewide assessment program created under s. 1008.22.

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

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

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

261 8. The ways by which the school will achieve a

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262 racial/ethnic balance reflective of the community it serves or
263 within the racial/ethnic range of other public schools in the
264 same school district.

265 9. The financial and administrative management of the
266 school, including a reasonable demonstration of the professional
267 experience or competence of those individuals or organizations
268 applying to operate the charter school or those hired or
269 retained to perform such professional services and the
270 description of clearly delineated responsibilities and the
271 policies and practices needed to effectively manage the charter
272 school. A description of internal audit procedures and
273 establishment of controls to ensure that financial resources are
274 properly managed must be included. Both public sector and
275 private sector professional experience shall be equally valid in
276 such a consideration. The charter must set forth, at least
277 annually, a program of continual, detailed reporting by the
278 charter school and review by the sponsor of the financial
279 operations of the charter school, including, specifically, the
280 capitalization, solvency, proper financial management, and
281 compensation paid to employees of the charter school, so as to
282 ensure that employees are not paid unreasonable compensation.

283 10. The asset and liability projections required in the
284 application which are incorporated into the charter and shall be
285 compared with information provided in the annual report of the
286 charter school.

287 11. A description of procedures that identify various risks
288 and provide for a comprehensive approach to reduce the impact of
289 losses; plans to ensure the safety and security of students and
290 staff; plans to identify, minimize, and protect others from

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291 violent or disruptive student behavior; and the manner in which
292 the school will be insured, including whether or not the school
293 will be required to have liability insurance, and, if so, the
294 terms and conditions thereof and the amounts of coverage.

295 12. The term of the charter which must ~~shall~~ provide for
296 cancellation of the charter if:

297 a. Insufficient progress has been made in attaining the
298 student achievement objectives of the charter and if it is not
299 likely that such objectives can be achieved before expiration of
300 the charter;

301 b. The charter school, at any time, becomes insolvent or
302 otherwise fails to pay its debts as they become due;

303 c. The charter school fails to provide a quality education
304 to its students; or

305 d. The charter school does not comply with applicable law.
306

307 The initial term of a charter shall be for 4 or 5 years. In
308 order to facilitate access to long-term financial resources for
309 charter school construction, charter schools that are operated
310 by a municipality or other public entity as provided by law are
311 eligible for up to a 15-year charter, subject to approval by the
312 district school board. A charter lab school is eligible for a
313 charter for a term of up to 15 years. In addition, to facilitate
314 access to long-term financial resources for charter school
315 construction, charter schools that are operated by a private,
316 not-for-profit, s. 501(c)(3) status corporation are eligible for
317 up to a 15-year charter, subject to approval by the district
318 school board. Such long-term charters remain subject to annual
319 review and may be terminated during the term of the charter, but

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320 only according to the provisions set forth in subsection (8).

321 13. The facilities to be used and their location.

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

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

328 16. A timetable for implementing the charter which
329 addresses the implementation of each element thereof and the
330 date by which the charter shall be awarded in order to meet this
331 timetable.

332 17. In the case of an existing public school that is being
333 converted to charter status, alternative arrangements for
334 current students who choose not to attend the charter school and
335 for current teachers who choose not to teach in the charter
336 school after conversion in accordance with the existing
337 collective bargaining agreement or district school board rule in
338 the absence of a collective bargaining agreement. However,
339 alternative arrangements shall not be required for current
340 teachers who choose not to teach in a charter lab school, except
341 as authorized by the employment policies of the state university
342 which grants the charter to the lab school.

343 18. Full disclosure of the identity of all relatives
344 employed by the charter school who are related to the charter
345 school owner, president, chairperson of the governing board of
346 directors, superintendent, governing board member, principal,
347 assistant principal, or any other person employed by the charter
348 school who has equivalent decisionmaking authority. For the

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349 purpose of this subparagraph, the term "relative" means father,
350 mother, son, daughter, brother, sister, uncle, aunt, first
351 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
352 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
353 stepfather, stepmother, stepson, stepdaughter, stepbrother,
354 stepsister, half brother, or half sister.

355 19. Implementation of the activities authorized under s.
356 1002.331 by the charter school when it satisfies the eligibility
357 requirements for a high-performing charter school. A high-
358 performing charter school shall notify its sponsor in writing by
359 March 1 if it intends to increase enrollment or expand grade
360 levels the following school year. The written notice shall
361 specify the amount of the enrollment increase and the grade
362 levels that will be added, as applicable.

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

364 (a) The sponsor may choose not to renew or may terminate
365 the charter for any of the following grounds:

366 1. Failure to participate in the state's education
367 accountability system created in s. 1008.31, as required in this
368 section, or failure to meet the requirements for student
369 performance stated in the charter.

370 2. Failure to meet generally accepted standards of fiscal
371 management, including, but not limited to, insolvency, payment
372 of unreasonable compensation to employees, or unlawful diversion
373 of the moneys or property of the charter school to the private
374 benefit of an employee of the charter school.

375 3. Violation of law.

376 4. Other good cause shown.

377 5. Violation of the charter.

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378 6. Failure to implement a corrective action provided under
379 sub-subparagraph (9) (n) 2.a., if applicable.

380 (d) A charter may be terminated immediately if the sponsor
381 sets forth in writing the particular facts and circumstances
382 indicating that an immediate and serious danger to the health,
383 safety, or welfare of the charter school's students exists. The
384 term "welfare" includes, but is not limited to, providing a
385 quality education to students of the charter school. The
386 sponsor's determination is subject to the procedures set forth
387 in paragraphs (b) and (c), except that the hearing may take
388 place after the charter has been terminated. The sponsor shall
389 notify in writing the charter school's governing board, the
390 charter school principal, and the department if a charter is
391 terminated immediately. The sponsor shall clearly identify the
392 specific issues that resulted in the immediate termination and
393 provide evidence of prior notification of issues resulting in
394 the immediate termination when appropriate. Upon receiving
395 written notice from the sponsor, the charter school's governing
396 board has 10 calendar days to request a hearing. A requested
397 hearing must be expedited and the final order must be issued
398 within 60 days after the date of request. The sponsor shall
399 assume operation of the charter school throughout the pendency
400 of the hearing under paragraphs (b) and (c) unless the continued
401 operation of the charter school would materially threaten the
402 health, safety, or welfare of the students. Failure by the
403 sponsor to assume and continue operation of the charter school
404 shall result in the awarding of reasonable costs and attorney's
405 fees to the charter school if the charter school prevails on
406 appeal.

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407 (9) CHARTER SCHOOL REQUIREMENTS.—

408 (n)1. The director and a representative of the governing
409 board of a charter school that has earned a grade of "D" or "F"
410 pursuant to s. 1008.34(2) shall appear before the sponsor to
411 present information concerning each contract component having
412 noted deficiencies. The director and a representative of the
413 governing board shall submit to the sponsor for approval a
414 school improvement plan to raise student achievement. Upon
415 approval by the sponsor, the charter school shall begin
416 implementation of the school improvement plan. The department
417 shall offer technical assistance and training to the charter
418 school and its governing board and establish guidelines for
419 developing, submitting, and approving such plans.

420 2.a. If a charter school earns three consecutive grades of
421 "D," two consecutive grades of "D" followed by a grade of "F,"
422 or two nonconsecutive grades of "F" within a 3-year period, the
423 charter school governing board, with the consent of the sponsor,
424 shall choose one of the following corrective actions:

425 (I) Contract for educational services to be provided
426 directly to students, instructional personnel, and school
427 administrators, as prescribed in state board rule;

428 (II) Contract with an outside entity that has a
429 demonstrated record of effectiveness to operate the school;

430 (III) Reorganize the school under a new director or
431 principal who is authorized to hire new staff; or

432 (IV) Voluntarily close the charter school.

433 b. The charter school must implement the corrective action
434 in the school year following receipt of a third consecutive
435 grade of "D," a grade of "F" following two consecutive grades of

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436 "D," or a second nonconsecutive grade of "F" within a 3-year
437 period.

438 c. The sponsor may annually waive a corrective action if it
439 determines that the charter school is likely to improve a letter
440 grade if additional time is provided to implement the
441 intervention and support strategies prescribed by the school
442 improvement plan. Notwithstanding this sub-subparagraph, a
443 charter school that earns a second consecutive grade of "F" is
444 subject to subparagraph 4.

445 d. A charter school is no longer required to implement a
446 corrective action if it improves by at least one letter grade.
447 However, the charter school must continue to implement
448 strategies identified in the school improvement plan. The
449 sponsor must annually review implementation of the school
450 improvement plan to monitor the school's continued improvement
451 pursuant to subparagraph 5.

452 e. A charter school implementing a corrective action that
453 does not improve by at least one letter grade after 2 full
454 school years of implementing the corrective action must select a
455 different corrective action. Implementation of the new
456 corrective action must begin in the school year following the
457 implementation period of the existing corrective action, unless
458 the sponsor determines that the charter school is likely to
459 improve a letter grade if additional time is provided to
460 implement the existing corrective action. Notwithstanding this
461 sub-subparagraph, a charter school that earns a second
462 consecutive grade of "F" while implementing a corrective action
463 is subject to subparagraph 4.

464 3. A charter school with a grade of "D" or "F" that

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465 improves by at least one letter grade must continue to implement
466 the strategies identified in the school improvement plan. The
467 sponsor must annually review implementation of the school
468 improvement plan to monitor the school's continued improvement
469 pursuant to subparagraph 5.

470 4. The sponsor shall terminate a charter if the charter
471 school earns two consecutive grades of "F" unless:

472 a. The charter school is established to turn around the
473 performance of a district public school pursuant to s.
474 1008.33(4)(b)3. Such charter schools shall be governed by s.
475 1008.33;

476 b. The charter school serves a student population the
477 majority of which resides in a school zone served by a district
478 public school that earned a grade of "F" in the year before the
479 charter school opened and the charter school earns at least a
480 grade of "D" in its third year of operation. The exception
481 provided under this sub-subparagraph does not apply to a charter
482 school in its fourth year of operation and thereafter; or

483 c. The state board grants the charter school a waiver of
484 termination. The charter school must request the waiver within
485 30 days after completion of school grade appeals. The state
486 board may waive termination if the charter school demonstrates
487 that the learning gains of its students on statewide assessments
488 are comparable to or better than the learning gains of similarly
489 situated students enrolled in nearby district public schools.
490 The waiver is valid for 1 year and may only be granted once.
491 Charter schools that have been in operation for more than 5
492 years are not eligible for a waiver under this sub-subparagraph.

493 5. The director and a representative of the governing board

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494 of a graded charter school that has implemented a school
495 improvement plan under this paragraph shall appear before the
496 sponsor at least once a year to present information regarding
497 the progress of intervention and support strategies implemented
498 by the school pursuant to the school improvement plan and
499 corrective actions, if applicable. The sponsor shall communicate
500 at the meeting, and in writing to the director, the services
501 provided to the school to help the school address its
502 deficiencies.

503 6. Notwithstanding any provision of this paragraph except
504 sub-subparagraphs 4.a.-c., the sponsor may terminate the charter
505 at any time pursuant to subsection (8).

506 (25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER
507 SCHOOL SYSTEMS.—A charter school system shall be designated a
508 local educational agency solely for the purpose of receiving
509 federal funds, the same manner as if ~~though~~ the charter school
510 system were a school district, if the governing board of the
511 charter school system has adopted and filed a resolution with
512 its sponsoring district school board and the Department of
513 Education in which the governing board ~~of the charter school~~
514 ~~system~~ accepts ~~the~~ full responsibility for all local education
515 agency requirements and if the charter school system meets all
516 of the following:

517 (a) Includes both conversion charter schools and
518 nonconversion charter schools. †

519 (b) Has all schools located in the same county. †

520 (c) Has a total enrollment exceeding the total enrollment
521 of at least one school district in the state. †

522 (d) Has the same governing board. † and

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523 (e) Does not contract with a for-profit service provider
524 for management of school operations.

525

526 Such designation does not apply to other provisions of law
527 unless specifically provided in law.

528 Section 2. This act shall take effect July 1, 2013.