

By Senator Ring

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1 A bill to be entitled
2 An act relating to charter schools; creating s.
3 1002.3301, F.S.; creating the Florida Charter School
4 Association; specifying the purpose of the
5 association; providing membership on the board of
6 directors; establishing the powers and duties of the
7 association; requiring the association to submit a
8 proposed plan of operation to the Department of
9 Education; providing for the annual assessment of
10 member charter schools; specifying what must be
11 included in the plan of operation; requiring the
12 department to adopt the plan of operation if the
13 association fails to do so; specifying duties of the
14 board of directors to aid in the prevention of charter
15 school failures; providing that the association is
16 subject to examination by the department; providing
17 immunity from liability or a cause of action against
18 specified persons; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 1002.3301, Florida Statutes, is created
23 to read:

24 1002.3301 Nonprofit organization; charter schools.-

25 (1) CREATION AND PURPOSE.-There is created a not-for-profit
26 corporation to be known as the "Florida Charter School
27 Association (FCSA)." Any charter school in this state may become
28 a member of the FCSA; however, membership in the FCSA is not
29 mandatory for any charter school. The FCSA shall perform its

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30 functions pursuant to the plan of operation established and
31 approved under subsection (4) and shall exercise its powers
32 through a board of directors established under subsection (2).
33 The FCSA has all powers granted or authorized to not-for-profit
34 corporations under chapter 617, in addition to other powers
35 granted in this section. The FCSA is established to:

36 (a) Protect the interests of students, parents, board
37 members, taxpayers, educators, and other claimants and the
38 general public.

39 (b) Provide a mechanism for administering charter school
40 operations and for administering payment of claims due to a
41 charter school failure, and mitigate the impact of failing
42 charters.

43 (c) Assist in the detection and prevention of a potentially
44 dangerous condition in a charter school and promptly apply
45 appropriate corrective measures.

46 (d) Implement improved methods for rehabilitating charter
47 schools, including methods involving the cooperation and
48 management expertise of the charter school industry.

49 (e) Establish a system to equitably apportion an
50 unavoidable loss as a result of a charter school failure.

51 (f) Administer the reassignment of students and teachers in
52 the event of a charter school failure.

53 (g) Maximize recovery of assets for the benefit of the
54 students, parents, board members, taxpayers, educators,
55 creditors, and other claimants and the general public.

56 (2) BOARD OF DIRECTORS.—The board of directors shall be
57 composed of at least five, but no more than nine, persons
58 serving terms as established in the FCSA's plan of operation.

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59 The Commissioner of Education shall appoint persons recommended
60 by member charter schools to the board. If the commissioner
61 determines that a recommended person is not qualified to serve
62 on the board of directors, the commissioner shall request
63 another recommendation from member charter schools. A vacancy on
64 the board shall be filled in the same manner as the original
65 appointment and shall be for the remainder of the unexpired term
66 of that seat.

67 (a) In appointing members to the board, the commissioner
68 shall consider whether all areas of charter school operations
69 are equitably represented.

70 (b) Members of the board may be reimbursed from the assets
71 of the FCSA for expenses incurred in connection with their
72 official duties as members of the board of directors.

73 (c) A board member representing a failed charter school
74 shall be terminated as a board member, effective as of the date
75 of the entry of the order of revocation of the charter.

76 (3) POWERS AND DUTIES.—

77 (a) The FCSA shall be:

78 1. Obligated for payment of claims resulting from a failing
79 charter existing before the adjudication of the charter failure
80 and arising within 30 days after the determination of such
81 failure. The FCSA may not be obligated to any claimant in an
82 amount in excess of the obligation of a member charter school
83 due to the failed charter from which the claim arises; and

84 2. Deemed the insurer to the extent of its obligation on
85 the covered claims and, to such extent, shall have all rights,
86 duties, defenses, and obligations of the failed member charter
87 school as if the charter school had not failed. The FCSA may not

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88 be held liable for any penalties or interest accrued by the
89 failed member charter school.

90 (b) The FCSA may:

91 1. Employ or retain such persons as are necessary to handle
92 claims and perform other duties of the association;

93 2. Borrow funds necessary to carry out the provisions of
94 this section in accordance with the plan of operation;

95 3. Sue or be sued if service of process is made upon the
96 person registered with the department as an agent for the
97 receipt of service of process; and

98 4. Negotiate and become a party to such contracts as are
99 necessary to carry out the provisions of this section.

100 (c)1. To the extent necessary to secure the funds for the
101 payment of covered claims and the administration of such claims,
102 the FCSA, upon certification of the board of directors, shall
103 levy an annual assessment on member charter schools. The plan of
104 operation shall specify the method of assessment; however, an
105 assessment levied against a member charter school in any given
106 year may not exceed 2 percent of the member charter school's
107 budget.

108 2. If sufficient funds from such assessments are not
109 available to make all payments or reimbursements owed to
110 claimants, the funds available shall be prorated, and the unpaid
111 portion shall be paid as soon thereafter as the funds become
112 available.

113 3. A member charter school may not use state funds in order
114 to satisfy payment of any assessment.

115 (4) PLAN OF OPERATION.—The FCSA shall submit to the
116 Department of Education a proposed plan of operation and any

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117 amendments necessary to ensure the fair and equitable
118 administration of the FCSA. The plan of operation and any
119 amendments thereto shall become effective upon written approval
120 by the department.

121 (a) The plan of operation shall:

122 1. Establish procedures for the performance of the powers
123 and duties of the FCSA;

124 2. Specify the method of the annual assessment of member
125 charter schools;

126 3. Establish procedures for handling assets of the FCSA;

127 4. Establish methods for reimbursement of members of the
128 board of directors;

129 5. Establish procedures by which claims may be filed with
130 the FCSA and acceptable forms of documentation for proof of
131 covered claims;

132 6. Designate regular times and locations for meetings of
133 the board of directors;

134 7. Establish procedures for the retention of records of all
135 financial transactions of the FCSA, its agents, and the board of
136 directors;

137 8. Establish procedures for a member charter school to
138 appeal any final action or decision of the FCSA to the
139 department within 30 days after the action or decision;

140 9. Establish procedures for submission of any
141 recommendations by the board of directors to the department; and

142 10. Contain any other provisions necessary for the FCSA to
143 carry out its powers and duties as prescribed by this section.

144 (b) If the association fails to submit a suitable proposed
145 plan of operation by January 1, 2015, or if at any time

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146 thereafter the FCSA fails to submit suitable amendments to the
147 plan, the department shall adopt rules as necessary to
148 administer this subsection. Such rules shall continue in force
149 until modified by the department or superseded by a proposed
150 plan submitted by the FCSA and approved by the department.

151 (c) The plan of operation may provide that any or all
152 powers and duties of the FCSA are delegated to a corporation, an
153 association, or any other organization that performs or will
154 perform functions similar to those of the FCSA, or its
155 equivalent, in two or more states. Such a corporation,
156 association, or organization shall be reimbursed for any
157 payments made on behalf of the FCSA and shall be paid for its
158 performance of any function of the FCSA. A delegation under this
159 paragraph shall take effect only with the approval of both the
160 board of directors and the department and may be made only to a
161 corporation, an association, or any other organization that
162 extends protection not substantially less favorable and
163 effective than that provided by this section.

164 (5) PREVENTION OF CHARTER FAILURE.—To aid in the detection
165 and prevention of charter school failures:

166 (a) The board of directors shall, upon a majority vote,
167 notify the department of any information indicating that a
168 member charter school may be insolvent or in a financial
169 condition hazardous to the public.

170 (b) The board of directors may, upon a majority vote,
171 request that the department order an examination of a member
172 charter school that the board in good faith believes may be in a
173 financial condition hazardous to the public. Within 30 days
174 after receipt of such request, the department shall commence

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175 such an examination. The department shall keep on file any
176 request for an examination. The cost of such examination shall
177 be paid by the FCSA. The department shall notify the board when
178 the examination is completed. A report containing the results of
179 such an examination may not be released to the board before any
180 general release to the public.

181 (c) The board of directors may, upon a majority vote, make
182 reports and recommendations to the department on any matter
183 related to the solvency, liquidation, rehabilitation, or
184 conservation of any member charter school.

185 (d) The board of directors may, upon a majority vote, make
186 recommendations to the department for the detection and
187 prevention of charter school failures.

188 (6) EXAMINATION.—The FCSA shall be subject to examination
189 and regulation by the department. The board of directors shall
190 submit, by March 30 of each year, a financial report for the
191 preceding calendar year in a form approved by the department.

192 (7) IMMUNITY.—There is no liability on the part of, and no
193 cause of action of any nature shall arise against, any member
194 charter school, the FCSA or its agents or employees, the board
195 of directors, the commissioner, or the department or their
196 representatives for any action consistent with the powers and
197 duties granted under this section. Such immunity shall extend to
198 the participation in any organization of one or more other state
199 associations of similar purposes and to any such organization
200 and its agents or employees.

201 Section 2. This act shall take effect July 1, 2014.