



704248

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

---

Appropriations Subcommittee on Education (Legg) recommended the following:

**Senate Substitute for Amendment (393610) (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (3), paragraphs (b), (c), and (h) of subsection (6), paragraph (a) of subsection (7), paragraphs (n) and (o) of subsection (9), and paragraph (g) of subsection (10) of section 1002.33, Florida Statutes, are amended to read:



704248

21 1002.33 Charter schools.—

22 (3) APPLICATION FOR CHARTER STATUS.—

23 (a) An application for a new charter school may be made by  
24 an individual, teachers, parents, a group of individuals, a  
25 municipality, or a legal entity organized under the laws of this  
26 state. An application for a charter school may be made by the  
27 military installation commander of a military installation, if  
28 the commander is a member of the charter school's not-for-profit  
29 governing board, the charter school is located on the military  
30 installation, and the governing board operates the charter  
31 school or contracts with a management company or similar entity  
32 to operate the charter school.

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

35 (b) A sponsor shall receive and review all applications for  
36 a charter school using the ~~an~~ evaluation instrument developed by  
37 the Department of Education. A sponsor shall receive and  
38 consider charter school applications received on or before  
39 August 1 of each calendar year for charter schools to be opened  
40 at the beginning of the school district's next school year, or  
41 to be opened at a time agreed to by the applicant and the  
42 sponsor. A sponsor may not refuse to receive a charter school  
43 application submitted before August 1 and may receive an  
44 application submitted later than August 1 if it chooses. In  
45 order to facilitate greater collaboration in the application  
46 process, an applicant may submit a draft charter school  
47 application on or before May 1 with an application fee of \$500.  
48 If a draft application is timely submitted, the sponsor shall  
49 review and provide feedback as to material deficiencies in the



704248

50 application by July 1. The applicant shall then have until  
51 August 1 to resubmit a revised and final application. The  
52 sponsor may approve the draft application. A sponsor may not  
53 charge an applicant for a charter any fee for the processing or  
54 consideration of an application, and a sponsor may not base its  
55 consideration or approval of a final application upon the  
56 promise of future payment of any kind. Before approving or  
57 denying any final application, the sponsor shall allow the  
58 applicant, upon receipt of written notification, at least 7  
59 calendar days to make ~~technical or nonsubstantive~~ corrections  
60 and clarifications to address any deficiencies, ~~including, but~~  
61 ~~not limited to, corrections of grammatical, typographical, and~~  
62 ~~like errors or missing signatures, if such errors are identified~~  
63 by the sponsor as cause to deny the final application.

64 1. In order to facilitate an accurate budget projection  
65 process, a sponsor shall be held harmless for FTE students who  
66 are not included in the FTE projection due to approval of  
67 charter school applications after the FTE projection deadline.  
68 In a further effort to facilitate an accurate budget projection,  
69 within 15 calendar days after receipt of a charter school  
70 application, a sponsor shall report to the Department of  
71 Education the name of the applicant entity, the proposed charter  
72 school location, and its projected FTE.

73 2. In order to ensure fiscal responsibility, an application  
74 for a charter school shall include a full accounting of expected  
75 assets, a projection of expected sources and amounts of income,  
76 including income derived from projected student enrollments and  
77 from community support, and an expense projection that includes  
78 full accounting of the costs of operation, including start-up



704248

79 costs.

80 3.a. A sponsor shall by a majority vote approve or deny an  
81 application no later than 60 calendar days after the application  
82 is received, unless the sponsor and the applicant mutually agree  
83 in writing to temporarily postpone the vote to a specific date,  
84 at which time the sponsor shall by a majority vote approve or  
85 deny the application. If the sponsor fails to act on the  
86 application, an applicant may appeal to the State Board of  
87 Education as provided in paragraph (c). If an application is  
88 denied, the sponsor shall, within 10 calendar days after such  
89 denial, articulate in writing the specific reasons, based upon  
90 good cause, supporting its denial of the charter application and  
91 shall provide the letter of denial and supporting documentation  
92 to the applicant and to the Department of Education.

93 b. An application submitted by a high-performing charter  
94 school identified pursuant to s. 1002.331 may be denied by the  
95 sponsor only if the sponsor demonstrates by clear and convincing  
96 evidence that:

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

99 (II) The charter school proposed in the application does  
100 not materially comply with the requirements in paragraphs  
101 (9) (a)-(f);

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

105 (IV) The applicant has made a material misrepresentation or  
106 false statement or concealed an essential or material fact  
107 during the application process; or



704248

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

111  
112 Material noncompliance is a failure to follow requirements or a  
113 violation of prohibitions applicable to charter school  
114 applications, which failure is quantitatively or qualitatively  
115 significant either individually or when aggregated with other  
116 noncompliance. An applicant is considered to be replicating a  
117 high-performing charter school if the proposed school is  
118 substantially similar to at least one of the applicant's high-  
119 performing charter schools and the organization or individuals  
120 involved in the establishment and operation of the proposed  
121 school are significantly involved in the operation of replicated  
122 schools.

123 c. If the sponsor denies an application submitted by a  
124 high-performing charter school, the sponsor must, within 10  
125 calendar days after such denial, state in writing the specific  
126 reasons, based upon the criteria in sub-subparagraph b.,  
127 supporting its denial of the application and must provide the  
128 letter of denial and supporting documentation to the applicant  
129 and to the Department of Education. The applicant may appeal the  
130 sponsor's denial of the application ~~directly~~ to the State Board  
131 of Education pursuant to paragraph (c) and must provide the  
132 sponsor with a copy of the appeal ~~sub-subparagraph (c)3.b.~~

133 4. For budget projection purposes, the sponsor shall report  
134 to the Department of Education the approval or denial of a  
135 charter application within 10 calendar days after such approval  
136 or denial. In the event of approval, the report to the



704248

137 Department of Education shall include the final projected FTE  
138 for the approved charter school.

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

143 (c)1. An applicant may appeal any denial of that  
144 applicant's application or failure to act on an application to  
145 the State Board of Education within ~~no later than~~ 30 calendar  
146 days after receipt of the sponsor's decision or failure to act  
147 and shall notify the sponsor of its appeal. Any response of the  
148 sponsor shall be submitted to the State Board of Education  
149 within 30 calendar days after notification of the appeal. Upon  
150 receipt of notification from the State Board of Education that a  
151 charter school applicant is filing an appeal, the Commissioner  
152 of Education shall convene a meeting of the Charter School  
153 Appeal Commission to study and make recommendations to the State  
154 Board of Education regarding its pending decision about the  
155 appeal. The commission shall forward its recommendation to the  
156 state board at least 7 calendar days before the date on which  
157 the appeal is to be heard. An appeal regarding the denial of an  
158 application submitted by a high-performing charter school  
159 pursuant to s. 1002.331 shall be conducted by the State Board of  
160 Education in accordance with this paragraph, except that the  
161 commission shall not convene to make recommendations regarding  
162 the appeal. However, the Commissioner of Education shall review  
163 the appeal and make a recommendation to the state board.

164 2. The Charter School Appeal Commission or, in the case of  
165 an appeal regarding an application submitted by a high-



704248

166 performing charter school, the State Board of Education may  
167 reject an appeal submission for failure to comply with  
168 procedural rules governing the appeals process. The rejection  
169 shall describe the submission errors. The appellant shall have  
170 15 calendar days after notice of rejection in which to resubmit  
171 an appeal that meets the requirements set forth in State Board  
172 of Education rule. An appeal submitted subsequent to such  
173 rejection is considered timely if the original appeal was filed  
174 within 30 calendar days after receipt of notice of the specific  
175 reasons for the sponsor's denial of the charter application.

176 3.a. The State Board of Education shall by majority vote  
177 accept or reject the decision of the sponsor no later than 90  
178 calendar days after an appeal is filed in accordance with State  
179 Board of Education rule. The State Board of Education shall  
180 remand the application to the sponsor with its written decision  
181 that the sponsor approve or deny the application. The sponsor  
182 shall implement the decision of the State Board of Education.  
183 The decision of the State Board of Education is not subject to  
184 the provisions of the Administrative Procedure Act, chapter 120.

185 b. If an appeal concerns an application submitted by a  
186 high-performing charter school identified pursuant to s.  
187 1002.331, the State Board of Education shall determine whether  
188 the sponsor's denial of the application complies with the  
189 requirements in sub-subparagraph (b)3.b. sponsor has shown, by  
190 clear and convincing evidence, that:

191 ~~(I) The application does not materially comply with the~~  
192 ~~requirements in paragraph (a);~~

193 ~~(II) The charter school proposed in the application does~~  
194 ~~not materially comply with the requirements in paragraphs~~



704248

195 ~~(9) (a) - (f);~~

196 ~~(III) The proposed charter school's educational program~~  
197 ~~does not substantially replicate that of the applicant or one of~~  
198 ~~the applicant's high performing charter schools;~~

199 ~~(IV) The applicant has made a material misrepresentation or~~  
200 ~~false statement or concealed an essential or material fact~~  
201 ~~during the application process; or~~

202 ~~(V) The proposed charter school's educational program and~~  
203 ~~financial management practices do not materially comply with the~~  
204 ~~requirements of this section.~~

205

206 The State Board of Education shall approve or reject the  
207 sponsor's denial of an application no later than 90 calendar  
208 days after an appeal is filed in accordance with State Board of  
209 Education rule. The State Board of Education shall remand the  
210 application to the sponsor with its written decision that the  
211 sponsor approve or deny the application. The sponsor shall  
212 implement the decision of the State Board of Education. The  
213 decision of the State Board of Education is not subject to the  
214 Administrative Procedure Act, chapter 120.

215 (h)1. The terms and conditions for the operation of a  
216 charter school shall be set forth by the sponsor and the  
217 applicant in a written contractual agreement, called a charter.  
218 The sponsor may not impose unreasonable rules or regulations  
219 that violate the intent of giving charter schools greater  
220 flexibility to meet educational goals. The sponsor has 30 days  
221 after approval of the application to provide an initial proposed  
222 charter contract to the charter school. The applicant and the  
223 sponsor have 40 days thereafter to negotiate and notice the





704248

224 charter contract for final approval by the sponsor unless both  
225 parties agree to an extension. The proposed charter contract  
226 shall be provided to the charter school at least 7 calendar days  
227 prior to the date of the meeting at which the charter is  
228 scheduled to be voted upon by the sponsor.

229 2. The Department of Education shall provide mediation  
230 services for any dispute regarding this section subsequent to  
231 the approval of a charter application and for any dispute  
232 relating to the approved charter, except disputes regarding  
233 charter school application denials.

234 3. If the Commissioner of Education determines that a the  
235 dispute cannot be settled through mediation, or if the sponsor  
236 or charter school requests to bypass mediation, a the dispute  
237 must be immediately forwarded ~~may be appealed~~ to an  
238 administrative law judge appointed by the Division of  
239 Administrative Hearings.

240 a. The administrative law judge must issue a summary final  
241 order for a dispute regarding language to be included in the  
242 initial charter contract. The administrative law judge may  
243 consider all documents determined necessary by the  
244 administrative law judge to issue the summary final order. The  
245 administrative law judge must hold at least one conference with  
246 the parties to discuss the dispute, and may require other  
247 proceedings only if determined necessary by the administrative  
248 law judge. The summary final order must consist of a summary of  
249 the facts and law, the position of the charter school and  
250 sponsor, the administrative law judge's disposition of the  
251 dispute and supporting rationale, and may include other  
252 information if determined necessary by the administrative law



704248

253 judge. The administrative law judge's summary final order must  
254 be issued within 30 calendar days after receipt of the referral  
255 of the dispute from the Commissioner of Education.

256 b. The administrative law judge has final order authority  
257 to rule on issues of equitable treatment of the charter school  
258 as a public school, whether proposed provisions of ~~the~~ charter  
259 renewals or amendments violate the intended flexibility granted  
260 charter schools by statute, or on any other matter regarding  
261 this section except a charter school application denial, a  
262 charter termination, or a charter nonrenewal.

263 c. The administrative law judge's summary final order or  
264 final order pursuant to this subparagraph ~~and~~ shall award the  
265 prevailing party reasonable attorney's fees and costs incurred  
266 to be paid by the losing party. The costs of the administrative  
267 hearing shall be paid by the party whom the administrative law  
268 judge rules against.

269 (7) CHARTER.— The major issues involving the operation of a  
270 charter school shall be considered in advance and written into  
271 the charter. The charter shall be signed by the governing board  
272 of the charter school and the sponsor, following a public  
273 hearing to ensure community input.

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

276 12. The term of the charter which shall provide for  
277 cancellation of the charter if insufficient progress has been  
278 made in attaining the student achievement objectives of the  
279 charter and if it is not likely that such objectives can be  
280 achieved before expiration of the charter. The initial term of  
281 the a charter, which shall be for 4 or 5 years. ~~In order to~~



704248

282 ~~facilitate access to long-term financial resources for charter~~  
283 ~~school construction,~~ Charter schools that are operated by a  
284 municipality or other public entity, as provided by law, or a  
285 private, not-for-profit, s. 501(c)(3) status corporation are  
286 eligible for up to a 15-year charter, subject to approval by the  
287 district school board, which consent may not unreasonably  
288 withheld. A charter lab school is also eligible for a charter  
289 for a term of up to 15 years. ~~In addition, to facilitate access~~  
290 ~~to long-term financial resources for charter school~~  
291 ~~construction, charter schools that are operated by a private,~~  
292 ~~not-for-profit, s. 501(c)(3) status corporation are eligible for~~  
293 ~~up to a 15-year charter, subject to approval by the district~~  
294 ~~school board.~~ Such long-term charters remain subject to annual  
295 review and may be terminated during the term of the charter, but  
296 only according to ~~the provisions set forth in~~ subsection (8).

297 20. Termination or nonrenewal of the charter pursuant to  
298 subsection (8), including termination for failure to make  
299 sufficient progress towards attaining the student achievement  
300 objectives of the charter.

301 (9) CHARTER SCHOOL REQUIREMENTS.—

302 (n)4. A charter school's charter is automatically  
303 terminated if the charter school earns two consecutive grades of  
304 "F," after all school grade appeals are final, ~~The sponsor shall~~  
305 ~~terminate a charter if the charter school earns two consecutive~~  
306 ~~grades of "F" unless:~~

307 a. The charter school is established to turn around the  
308 performance of a district public school pursuant to s.  
309 1008.33(4)(b)3. Such charter schools shall be governed by s.  
310 1008.33;



704248

311           b. The charter school serves a student population the  
312 majority of which resides in a school zone served by a district  
313 public school that earned a grade of "F" in the year before the  
314 charter school opened and the charter school earns at least a  
315 grade of "D" in its third year of operation. The exception  
316 provided under this sub-subparagraph does not apply to a charter  
317 school in its fourth year of operation and thereafter; or

318           c. The state board grants the charter school a waiver of  
319 termination. The charter school must request the waiver within  
320 15 days after the department's official release of school  
321 grades. The state board may waive termination if the charter  
322 school demonstrates that the learning gains of its students on  
323 statewide assessments are comparable to or better than the  
324 learning gains of similarly situated students enrolled in nearby  
325 district public schools. The waiver is valid for 1 year and may  
326 only be granted once. Charter schools that have been in  
327 operation for more than 5 years are not eligible for a waiver  
328 under this sub-subparagraph.

329  
330 The sponsor shall notify in writing the charter school's  
331 governing board, the charter school principal, and the  
332 department when a charter is terminated under this subparagraph.  
333 A charter terminated under this subparagraph is governed by the  
334 requirements of paragraphs (8) (e)-(g) and (9) (o).

335           (o)1. Upon initial notification of nonrenewal, closure, or  
336 termination of its charter, a charter school may not expend more  
337 than \$10,000 per expenditure without prior written approval from  
338 the sponsor unless such expenditure was included within the  
339 annual budget submitted to the sponsor pursuant to the charter



704248

340 contract, is for reasonable attorney fees and costs during the  
341 pendency of any hearing or appeal, or is for reasonable fees and  
342 costs to conduct an independent audit.

343 2. An independent audit shall be completed within 30 days  
344 after notice of nonrenewal, closure, or termination to account  
345 for all public funds and assets.

346 3. A provision in a charter contract that contains an  
347 acceleration clause requiring the expenditure of funds based  
348 upon closure or upon notification of nonrenewal or termination  
349 is void and unenforceable.

350 4. A charter school may not enter into a contract with an  
351 employee that exceeds the term of the school's charter contract  
352 with its sponsor.

353 5. A violation of this paragraph triggers a reversion or  
354 clawback power by the sponsor allowing for collection of an  
355 amount equal to or less than the accelerated amount that exceeds  
356 normal expenditures. The reversion or clawback plus legal fees  
357 and costs shall be levied against the person or entity receiving  
358 the accelerated amount.

359 (10) ELIGIBLE STUDENTS.—

360 (g)1. A student may withdraw from a charter school at any  
361 time and enroll in another public school as determined by  
362 district school board rule. A charter school must request, but  
363 may not require, that the student withdrawing or the parent of  
364 the student withdrawing complete a survey and provide  
365 information concerning the student's experiences at the charter  
366 school and reasons for withdrawal. A charter school must provide  
367 in its annual report to its sponsor and the Department of  
368 Education the total number of students that leave the charter



704248

369 school and their reasons for leaving the charter school,  
370 including but not limited to, withdrawal, suspension, and  
371 dismissal, if known.

372 2. A student may only receive disciplinary action,  
373 including but not limited to suspension or dismissal, on the  
374 grounds and in the manner specified in the charter school's code  
375 of student conduct.

376 Section 2. Subsection (5) of section 1002.331, Florida  
377 Statutes, is amended to read:

378 1002.331 High-performing charter schools.—

379 (5) The Commissioner of Education, upon request by a  
380 charter school, shall verify that the charter school meets the  
381 criteria in subsection (1) and provide a letter to the charter  
382 school and the sponsor stating that the charter school is a  
383 high-performing charter school pursuant to this section. The  
384 commissioner shall annually determine whether a high-performing  
385 charter school under subsection (1) continues to meet the  
386 criteria in that subsection. Such high-performing charter school  
387 shall maintain its high-performing status unless the  
388 commissioner determines that the charter school no longer meets  
389 the criteria in subsection (1), at which time the commissioner  
390 shall send a letter to the charter school and its sponsor  
391 providing notification that the charter school has been  
392 declassified ~~of its declassification~~ as a high-performing  
393 charter school.

394 Section 3. Paragraph (a) of subsection (1) of section  
395 1013.62, Florida Statutes, is amended to read:

396 1013.62 Charter schools capital outlay funding.—

397 (1) In each year in which funds are appropriated for



704248

398 charter school capital outlay purposes, the Commissioner of  
399 Education shall allocate the funds among eligible charter  
400 schools.

401 (a) To be eligible for a funding allocation, a charter  
402 school must:

403 1.a. Have been in operation for 3 or more years;

404 b. Be governed by a governing board established in the  
405 state for 3 or more years which operates both charter schools  
406 and conversion charter schools within the state;

407 c. Be an expanded feeder chain of a charter school within  
408 the same school district that is currently receiving charter  
409 school capital outlay funds;

410 d. Have been accredited by the Commission on Schools of the  
411 Southern Association of Colleges and Schools; or

412 e. Serve students in facilities that are provided by a  
413 business partner for a charter school-in-the-workplace pursuant  
414 to s. 1002.33(15) (b).

415 2. For the most recent fiscal year for which an audit is  
416 available, have an audit that does not reveal one or more of the  
417 following emergency financial conditions: ~~stability for future~~  
418 operation as a charter school.

419 a. During that fiscal year, failure to pay short-term loans  
420 and failure to timely make bond debt service or other long-term  
421 debt payments due to a lack of funds.

422 b. Failure to pay uncontested claims from creditors within  
423 90 days after the claim is presented due to a lack of funds.

424 c. Failure to transfer at the appropriate time, due to lack  
425 of funds:

426 (I) Taxes withheld on the income of employees; or



427       (II) Employer and employee contributions for federal social  
428 security or any other pension, retirement, or benefit plan of an  
429 employee.

430       d. Failure for one pay period to pay, due to lack of funds:

431       (I) Wages and salaries owed to employees; or

432       (II) Retirement benefits owed to former employees.

433       3. Have satisfactory student achievement based on state  
434 accountability standards applicable to the charter school.

435       4. Have received final approval from its sponsor pursuant  
436 to s. 1002.33 for operation during that fiscal year.

437       5. Serve students in facilities that are not provided by  
438 the charter school's sponsor.

439       Section 4. This act shall take effect July 1, 2014.

440

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

442 And the title is amended as follows:

443       Delete everything before the enacting clause

444 and insert:

445                               A bill to be entitled  
446       An act relating to charter schools; amending s.  
447       1002.33, F.S.; authorizing a military installation  
448       commander of a military installation to apply for a  
449       charter school located on the military installation;  
450       establishing conditions for the commander and charter  
451       school governing board; conforming provisions  
452       regarding the appeal process for denial of high-  
453       performing charter school applications; authorizing  
454       contract disputes to be referred to the Division of  
455       Administrative Hearings for summary final order;





704248

456 removing limitation of access to long-term charters  
457 for a private, not-for-profit corporation; clarifying  
458 provisions regarding charter terminations; specifying  
459 that a charter is automatically terminated when a  
460 charter school earns two consecutive grades of "F"  
461 after all appeals unless an exception applies;  
462 specifying requirements regarding such terminations;  
463 providing that a charter school may only discipline  
464 students for the grounds and in the manner specified  
465 in the code of student conduct; amending s. 1002.331,  
466 F.S.; clarifying the commissioner's requirements when  
467 a high performing charter school is declassified;  
468 amending s. 1013.62, F.S.; requiring that a charter  
469 school not have financial emergency conditions on an  
470 annual audit in order to qualify for capital outlay  
471 funding; providing an effective date.

472  
473