

By Senator Stargel

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1 A bill to be entitled
2 An act relating to Florida virtual education; amending
3 s. 1002.33, F.S.; conforming provisions to changes
4 made by the act; amending s. 1002.37, F.S.; providing
5 that certain employees of the Florida Virtual School
6 are entitled to sovereign immunity; revising the
7 students given priority by the Florida Virtual School;
8 revising the number of members appointed to the board
9 of trustees of the Florida Virtual School; providing
10 term limits for members of the board; providing that
11 the board members are governed by a specified code of
12 ethics; prohibiting members of the board and any
13 member of a governing body for a direct-support
14 organization or supplemental support organization
15 associated with the Florida Virtual School from having
16 specified business relationships or interest in the
17 Florida Virtual School; requiring the board to appoint
18 an executive director; providing duties of the
19 executive director; requiring the board of trustees to
20 meet at the call of the executive director;
21 authorizing, rather than requiring, the board of
22 trustees to participate in specified marketing
23 activities; requiring the board of trustees to be
24 responsible for all internal funds of the school;
25 authorizing the Florida Virtual School to accrue
26 supplemental revenue from a specified organization;
27 requiring the executive director of the Florida
28 Virtual School to review and approve specified
29 expenditures; deleting a provision authorizing the

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30 executive director to override such expenditures under
31 certain circumstances; deleting provisions authorizing
32 the board of trustees to adopt certain rules and
33 procedures; providing that all Florida Virtual School
34 employees are subject to specified policies; requiring
35 all the employees to receive a specified contract;
36 deleting a requirement that the board of trustees
37 distribute certain procedures to high schools in this
38 state; requiring student records held by the school to
39 meet specified provisions; providing requirements for
40 meetings of the board of trustees; revising the
41 requirements for a specified plan; deleting a
42 requirement that the Florida Virtual School board of
43 trustees submit specified information to certain
44 entities for the Florida Virtual School Global;
45 requiring the board to establish an Office of
46 Inspector General within the school; providing duties
47 and responsibilities of the office; amending s.
48 1002.45, F.S.; deleting a requirement that certain
49 school districts provide a specified number of virtual
50 instruction options; authorizing a virtual charter
51 school to provide part-time instruction under certain
52 circumstances; authorizing the Department of Education
53 to conditionally approve a virtual instruction
54 provider for 2 years, rather than 1 year; providing an
55 effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Subsection (1) of section 1002.33, Florida
60 Statutes, is amended to read:

61 1002.33 Charter schools.—

62 (1) AUTHORIZATION.—All charter schools in Florida are
63 public schools and shall be part of the state's program of
64 public education. A charter school may be formed by creating a
65 new school or converting an existing public school to charter
66 status. A charter school may operate a virtual charter school
67 pursuant to s. 1002.45(1)(d) to provide full-time or part-time
68 online instruction to students, pursuant to s. 1002.455, in
69 kindergarten through grade 12. The school district in which the
70 student enrolls in the virtual charter school shall report the
71 student for funding pursuant to s. 1011.61(1)(c)1.b.(VI), and
72 the home school district shall not report the student for
73 funding. An existing charter school that is seeking to become a
74 virtual charter school must amend its charter or submit a new
75 application pursuant to subsection (6) to become a virtual
76 charter school. A virtual charter school is subject to the
77 requirements of this section; however, a virtual charter school
78 is exempt from subsections (18) and (19), paragraph (20)(c), and
79 s. 1003.03. A public school may not use the term charter in its
80 name unless it has been approved under this section.

81 Section 2. Paragraphs (a) and (b) of subsection (1),
82 subsections (2) and (4), and paragraph (b) of subsection (7) of
83 section 1002.37, Florida Statutes, are amended, and subsection
84 (12) is added to that section, to read:

85 1002.37 The Florida Virtual School.—

86 (1)(a) The Florida Virtual School is an agency of the state
87 established for the development and delivery of world-class

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88 online and distance learning education. The Florida Virtual
89 School, its board of trustees, officers, and employees are
90 entitled to sovereign immunity pursuant to s. 768.28. The
91 Commissioner of Education shall monitor the school's performance
92 and report its performance to the State Board of Education and
93 the Legislature.

94 (b) The mission of the Florida Virtual School is to provide
95 students with technology-based educational opportunities to gain
96 the knowledge and skills necessary to succeed. The school shall
97 serve any student in the state who meets the profile for success
98 in this educational delivery context and shall give priority to:

99 1. Students who need expanded access to courses in order to
100 meet their educational goals, such as home education students,
101 ~~and~~ students in inner-city and rural areas ~~high schools~~ who do
102 not have access to higher-level courses, English language
103 learners, students with exceptionalities who currently do not
104 have access to higher-level courses, including gifted students.

105 2. Students seeking accelerated access in order to obtain a
106 high school diploma at least one semester early.

107 3. Students who are children of an active duty member of
108 the United States Armed Forces who is not stationed in this
109 state and whose home of record or state of legal residence is
110 Florida.

111 4. Students who are in an alternative setting or a
112 Department of Juvenile Justice program.

113
114 The board of trustees of the Florida Virtual School shall
115 identify appropriate performance measures and standards based on
116 student achievement that reflect the school's statutory mission

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117 and priorities, and shall implement an accountability system for
118 the school that includes assessment of its effectiveness and
119 efficiency in providing quality services that encourage high
120 student achievement, seamless articulation, and maximum access.

121 (2) (a) The Florida Virtual School shall be governed by a
122 board of trustees comprised of five ~~seven~~ members appointed by
123 the Governor to 4-year staggered terms. A member may not serve
124 more than two consecutive 4-year terms on the board. The ~~board~~
125 ~~of trustees shall be a public agency entitled to sovereign~~
126 ~~immunity pursuant to s. 768.28,~~ and board members shall be
127 public officers who shall bear fiduciary responsibility for the
128 Florida Virtual School. The board of trustees shall be governed
129 by the code of ethics for public officers and employees as set
130 forth in part III of chapter 112. A member of the board of
131 trustees may not have any business relationship with or
132 pecuniary interest in the Florida Virtual School while serving
133 on the board or for 6 years after serving on the board.

134 (b) The board of trustees shall have the following powers
135 and duties:

136 1. The board of trustees shall appoint an executive
137 director. The executive director is responsible for executing
138 the Florida Virtual School's mission, vision, and goals; for
139 proposing policies and policy revisions to the board of
140 trustees; and for the day-to-day operations of the Florida
141 Virtual School.

142 2.a. ~~(a)1.~~ The board of trustees shall meet at least 4 times
143 each year, upon the call of the chair or executive director, or
144 at the request of a majority of the board membership.

145 b.2. The fiscal year for the Florida Virtual School shall

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146 be the state fiscal year as provided in s. 216.011(1)(o).

147 3.~~(b)~~ The board of trustees shall be responsible for the
148 Florida Virtual School's development of a state-of-the-art
149 technology-based education delivery system that is cost-
150 effective, educationally sound, marketable, and capable of
151 sustaining a self-sufficient delivery system through the Florida
152 Education Finance Program.

153 4.~~(e)~~ The board of trustees shall aggressively seek avenues
154 to generate revenue to support its future endeavors, and shall
155 enter into agreements with distance learning providers. The
156 board of trustees may acquire, enjoy, use, and dispose of
157 patents, copyrights, and trademarks and any licenses and other
158 rights or interests thereunder or therein. Ownership of all such
159 patents, copyrights, trademarks, licenses, and rights or
160 interests thereunder or therein shall vest in the state, with
161 the board of trustees having full right of use and full right to
162 retain the revenues derived therefrom. Any funds realized from
163 patents, copyrights, trademarks, or licenses shall be considered
164 internal funds ~~as provided in s. 1011.07~~. Such funds shall be
165 used to support the school's marketing, if the school chooses to
166 participate in any marketing, and research and development
167 activities in order to improve courseware and services to its
168 students.

169 5.~~(d)~~ The board of trustees shall be responsible for the
170 administration and control of all internal and local school
171 funds derived from all activities or sources and shall prescribe
172 the principles and procedures to be followed in administering
173 these funds.

174 6.~~(e)~~ The Florida Virtual School may accrue supplemental

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175 revenue from a direct-support organization in accordance with s.
176 1001.453. The Florida Virtual School may also accrue
177 ~~supplemental~~ revenue from supplemental support organizations,
178 which include, but are not limited to, alumni associations,
179 ~~foundations,~~ parent-teacher associations, and booster
180 associations. However, a member of the governing body of such an
181 organization may not have a business relationship with or
182 pecuniary interest in the Florida Virtual School. The governing
183 body of each ~~supplemental support~~ organization shall recommend
184 the expenditure of moneys collected or generated by it the
185 ~~organization~~ for the benefit of the school. Such expenditures
186 shall be contingent upon the review and approval of the
187 executive director of the Florida Virtual School. ~~The executive~~
188 ~~director may override any proposed expenditure of the~~
189 ~~organization that would violate Florida law or breach sound~~
190 ~~educational management.~~

191 7.(f) In accordance with law and rules of the State Board
192 of Education, the board of trustees shall administer and
193 maintain personnel programs for all employees of the board of
194 trustees and the Florida Virtual School. The board of trustees
195 may adopt ~~rules, policies, and procedures~~ related to the
196 appointment, employment, and removal of personnel.

197 a.1. The board of trustees shall determine the
198 compensation, including salaries and fringe benefits, and other
199 conditions of employment for such personnel.

200 b.2. The board of trustees may establish and maintain a
201 personnel loan or exchange program by which persons employed by
202 the board of trustees for the Florida Virtual School as academic
203 administrative and instructional staff may be loaned to, or

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204 exchanged with persons employed in like capacities by, public
205 agencies either within or without this state, or by private
206 industry. With respect to public agency employees, the program
207 authorized by this subparagraph shall be consistent with the
208 requirements of part II of chapter 112. The salary and benefits
209 of board of trustees personnel participating in the loan or
210 exchange program shall be continued during the period of time
211 they participate in a loan or exchange program, and such
212 personnel shall be deemed to have no break in creditable or
213 continuous service or employment during such time. The salary
214 and benefits of persons participating in the personnel loan or
215 exchange program who are employed by public agencies or private
216 industry shall be paid by the originating employers of those
217 participants, and such personnel shall be deemed to have no
218 break in creditable or continuous service or employment during
219 such time.

220 c.3. The employment of all Florida Virtual School ~~academic~~
221 ~~administrative and instructional~~ personnel shall be subject to
222 ~~rejection for cause by the board of trustees, and shall be~~
223 ~~subject to~~ policies of the board of trustees relative to
224 certification, tenure, leaves of absence, sabbaticals,
225 remuneration; subject to, and such other conditions of
226 employment as the board of trustees deems necessary and proper;
227 and consistent, ~~not inconsistent~~ with law, including s.
228 1001.42 (5), (6), and (7).

229 d.4. Each person employed by ~~the board of trustees in an~~
230 ~~academic administrative or instructional capacity with the~~
231 Florida Virtual School shall be entitled to an annual, written a
232 contract as provided by policies ~~rules~~ of the board of trustees.

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233 ~~e.5.~~ All employees except temporary, seasonal, and student
234 employees may be state employees for the purpose of being
235 eligible to participate in the Florida Retirement System and
236 receive benefits. The classification and pay plan, including
237 terminal leave and other benefits, and any amendments thereto,
238 shall be subject to review and approval by the Department of
239 Management Services and the Executive Office of the Governor
240 prior to adoption.

241 8.~~(g)~~ The board of trustees shall establish priorities for
242 admission of students in accordance with paragraph (1)(b).

243 9.~~(h)~~ The board of trustees shall establish and distribute
244 to all school districts ~~and high schools~~ in the state procedures
245 for enrollment of students in courses offered by the Florida
246 Virtual School.

247 10.~~(i)~~ The board of trustees shall establish criteria
248 defining the elements of an approved franchise. The board of
249 trustees may enter into franchise agreements with Florida
250 district school boards and may establish the terms and
251 conditions governing such agreements. The board of trustees
252 shall establish the performance and accountability measures and
253 report the performance of each school district franchise to the
254 Commissioner of Education.

255 11.~~(j)~~ The board of trustees shall submit to the State
256 Board of Education both forecasted and actual enrollments and
257 credit completions for the Florida Virtual School, according to
258 procedures established by the State Board of Education. At a
259 minimum, such procedures must include the number of public,
260 private, and home education students served by program and by
261 county of residence.

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262 12.~~(*)~~ The board of trustees shall provide for the content
263 and custody of student and employee personnel records. Student
264 records shall be subject to the provisions of ss. s. 1002.22,
265 1002.221, and 1002.222. Employee records shall be subject to the
266 provisions of s. 1012.31.

267 13.~~(1)~~ The financial records and accounts of the Florida
268 Virtual School shall be maintained under the direction of the
269 board of trustees and under rules adopted by the State Board of
270 Education for the uniform system of financial records and
271 accounts for the schools of the state.

272 14. The meetings of the board of trustees shall be
273 conducted and noticed pursuant to s. 1001.372(1), (3), and (4).

274
275 The Governor shall designate the initial chair of the board of
276 trustees to serve a term of 4 years. Members of the board of
277 trustees shall serve without compensation, but may be reimbursed
278 for per diem and travel expenses pursuant to s. 112.061. The
279 board of trustees shall be a body corporate with all the powers
280 of a body corporate and such authority as is needed for the
281 proper operation and improvement of the Florida Virtual School.
282 The board of trustees is specifically authorized to adopt ~~rules,~~
283 ~~policies, and procedures,~~ consistent with law and rules of the
284 State Board of Education related to governance, personnel,
285 budget and finance, administration, programs, curriculum and
286 instruction, travel and purchasing, technology, students,
287 contracts and grants, and property as necessary for optimal,
288 efficient operation of the Florida Virtual School. Tangible
289 personal property owned by the board of trustees shall be
290 subject to the provisions of chapter 273.

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291 (4) School districts operating a virtual school that is an
292 approved franchise of the Florida Virtual School may count full-
293 time equivalent students, as provided in paragraph (3)(a), if
294 such school has been certified as an approved franchise by the
295 Commissioner of Education based on criteria established by the
296 board of trustees pursuant to subparagraph (2)(b)10. ~~paragraph~~
297 ~~(2)(i).~~

298 (7) The board of trustees shall annually submit to the
299 Governor, the Legislature, the Commissioner of Education, and
300 the State Board of Education the audit report prepared pursuant
301 to subsection (6) and a complete and detailed report setting
302 forth:

303 (b) The ~~marketing and operational plan for the Florida~~
304 ~~Virtual School and Florida Virtual School Global,~~ including
305 recommendations regarding methods for improving the delivery of
306 digital education through the Internet and other distance
307 ~~learning technology.~~

308 (12) The board of trustees shall establish an Office of the
309 Inspector General within the school using existing resources and
310 funds. The office is responsible for promoting accountability,
311 efficiency, and effectiveness and detecting fraud and abuse
312 within the school. If there are substantiated allegations made
313 by any person relating to waste, fraud, or financial
314 mismanagement within the school, the office shall conduct,
315 coordinate, or request investigations into such substantiated
316 allegations. The office shall investigate allegations or reports
317 of possible fraud or abuse against the school or its staff or
318 students. The office shall have access to all information and
319 personnel necessary to perform its duties.

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320 Section 3. Paragraphs (b) and (d) of subsection (1) and
321 paragraph (a) of subsection (2) of section 1002.45, Florida
322 Statutes, are amended to read:

323 1002.45 Virtual instruction programs.—

324 (1) PROGRAM.—

325 (b) Each school district ~~that is eligible for the sparsity~~
326 ~~supplement pursuant to s. 1011.62(7)(a) and (b)~~ shall provide
327 all enrolled public school students within its boundaries the
328 option of participating in part-time and full-time virtual
329 instruction programs and. ~~Each school district that is not~~
330 ~~eligible for the sparsity supplement pursuant to s.~~
331 ~~1011.62(7)(a) and (b) shall provide at least three options for~~
332 ~~part-time and full-time virtual instruction. All school~~
333 ~~districts~~ must provide parents with timely written notification
334 of at least one open enrollment period for full-time students of
335 90 days or more which ends 30 days before the first day of the
336 school year. The purpose of the program is to make quality
337 virtual instruction available to students using online and
338 distance learning technology in the nontraditional classroom. A
339 school district virtual instruction program shall consist of the
340 following:

341 1. Full-time and part-time virtual instruction for students
342 enrolled in kindergarten through grade 12.

343 2. Full-time or part-time virtual instruction for students
344 enrolled in dropout prevention and academic intervention
345 programs under s. 1003.53, Department of Juvenile Justice
346 education programs under s. 1003.52, core-curricula courses to
347 meet class size requirements under s. 1003.03, or Florida
348 College System institutions under this section.

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349 (d) A virtual charter school may provide full-time virtual
350 instruction for students in kindergarten through grade 12 if the
351 virtual charter school has a charter approved pursuant to s.
352 1002.33 authorizing full-time virtual instruction. A virtual
353 charter school may provide part-time virtual instruction for
354 such students if the school has provided full-time instruction
355 for at least 1 school year. A virtual charter school may:

- 356 1. Contract with the Florida Virtual School.
357 2. Contract with an approved provider under subsection (2).
358 3. Enter into an agreement with a school district to allow
359 the participation of the virtual charter school's students in
360 the school district's virtual instruction program. The agreement
361 must indicate a process for reporting of student enrollment and
362 the transfer of funds required by paragraph (7) (e).

363 (2) PROVIDER QUALIFICATIONS.—

364 (a) The department shall annually publish online a list of
365 providers approved to offer virtual instruction programs. To be
366 approved by the department, a provider must document that it:

- 367 1. Is nonsectarian in its programs, admission policies,
368 employment practices, and operations;
369 2. Complies with the antidiscrimination provisions of s.
370 1000.05;

371 3. Locates an administrative office or offices in this
372 state, requires its administrative staff to be state residents,
373 requires all instructional staff to be Florida-certified
374 teachers under chapter 1012 and conducts background screenings
375 for all employees or contracted personnel, as required by s.
376 1012.32, using state and national criminal history records;

- 377 4. Provides to parents and students specific information

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378 posted and accessible online that includes, but is not limited
379 to, the following teacher-parent and teacher-student contact
380 information for each course:

381 a. How to contact the instructor via phone, e-mail, or
382 online messaging tools.

383 b. How to contact technical support via phone, e-mail, or
384 online messaging tools.

385 c. How to contact the administration office via phone, e-
386 mail, or online messaging tools.

387 d. Any requirement for regular contact with the instructor
388 for the course and clear expectations for meeting the
389 requirement.

390 e. The requirement that the instructor in each course must,
391 at a minimum, conduct one contact via phone with the parent and
392 the student each month;

393 5. Possesses prior, successful experience offering online
394 courses to elementary, middle, or high school students as
395 demonstrated by quantified student learning gains in each
396 subject area and grade level provided for consideration as an
397 instructional program option. However, for a provider without
398 sufficient prior, successful experience offering online courses,
399 the department may conditionally approve the provider to offer
400 courses measured pursuant to subparagraph (8)(a)2. Conditional
401 approval shall be valid for 1 school year only and, based on the
402 provider's experience in offering the courses, the department
403 shall determine whether to grant approval to offer a virtual
404 instruction program. However, the department may conditionally
405 approve a provider for 2 school years at its discretion based on
406 the provider's success in other states;

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- 407 6. Is accredited by a regional accrediting association as
408 defined by State Board of Education rule;
- 409 7. Ensures instructional and curricular quality through a
410 detailed curriculum and student performance accountability plan
411 that addresses every subject and grade level it intends to
412 provide through contract with the school district, including:
- 413 a. Courses and programs that meet the standards of the
414 International Association for K-12 Online Learning and the
415 Southern Regional Education Board.
- 416 b. Instructional content and services that align with, and
417 measure student attainment of, student proficiency in the Next
418 Generation Sunshine State Standards.
- 419 c. Mechanisms that determine and ensure that a student has
420 satisfied requirements for grade level promotion and high school
421 graduation with a standard diploma, as appropriate;
- 422 8. Publishes for the general public, in accordance with
423 disclosure requirements adopted in rule by the State Board of
424 Education, as part of its application as a provider and in all
425 contracts negotiated pursuant to this section:
- 426 a. Information and data about the curriculum of each full-
427 time and part-time program.
- 428 b. School policies and procedures.
- 429 c. Certification status and physical location of all
430 administrative and instructional personnel.
- 431 d. Hours and times of availability of instructional
432 personnel.
- 433 e. Student-teacher ratios.
- 434 f. Student completion and promotion rates.
- 435 g. Student, educator, and school performance accountability

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436 outcomes;

437 9. If the provider is a Florida College System institution,
438 employs instructors who meet the certification requirements for
439 instructional staff under chapter 1012; and

440 10. Performs an annual financial audit of its accounts and
441 records conducted by an independent certified public accountant
442 which is in accordance with rules adopted by the Auditor
443 General, is conducted in compliance with generally accepted
444 auditing standards, and includes a report on financial
445 statements presented in accordance with generally accepted
446 accounting principles.

447 Section 4. This act shall take effect July 1, 2020.