

By the Committee on Judiciary; and 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; revising
35 requirements for the use of certain employment
36 contracts; deleting a requirement that the board of
37 trustees distribute certain procedures to high schools
38 in this state; requiring student records held by the
39 school to meet specified provisions; providing
40 requirements for meetings of the board of trustees;
41 revising the requirements for a specified plan;
42 deleting a requirement that the Florida Virtual School
43 board of trustees submit specified information to
44 certain entities for the Florida Virtual School
45 Global; 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 to
154 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 may ~~shall~~
165 be used to support the school's marketing and research and
166 development activities in order to improve courseware and
167 services to its students.

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

173 6.~~(e)~~ The Florida Virtual School may accrue supplemental
174 revenue from a direct-support organization in accordance with s.

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

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

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

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

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

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

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

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233 trustees. Employment contracts for nonacademic personnel may be
234 determined by board of trustees policy.

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

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

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

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

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

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262 private, and home education students served by program and by
263 county of residence.

264 12.~~(*)~~ The board of trustees shall provide for the content
265 and custody of student and employee personnel records. Student
266 records shall be subject to the provisions of ss. ~~s.~~ 1002.22,
267 1002.221, and 1002.222. Employee records shall be subject to the
268 provisions of s. 1012.31.

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

274 14. The meetings of the board of trustees shall be
275 conducted and noticed pursuant to s. 1001.372(1), (3), and (4).
276

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

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291 personal property owned by the board of trustees shall be
292 subject to the provisions of chapter 273.

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

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

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

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

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320 students. The office shall have access to all information and
321 personnel necessary to perform its duties.

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

325 1002.45 Virtual instruction programs.—

326 (1) PROGRAM.—

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

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

345 2. Full-time or part-time virtual instruction for students
346 enrolled in dropout prevention and academic intervention
347 programs under s. 1003.53, Department of Juvenile Justice
348 education programs under s. 1003.52, core-curricula courses to

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349 meet class size requirements under s. 1003.03, or Florida
350 College System institutions under this section.

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

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

365 (2) PROVIDER QUALIFICATIONS.—

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

- 369 1. Is nonsectarian in its programs, admission policies,
370 employment practices, and operations;
- 371 2. Complies with the antidiscrimination provisions of s.
372 1000.05;
- 373 3. Locates an administrative office or offices in this
374 state, requires its administrative staff to be state residents,
375 requires all instructional staff to be Florida-certified
376 teachers under chapter 1012 and conducts background screenings
377 for all employees or contracted personnel, as required by s.

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378 1012.32, using state and national criminal history records;

379 4. Provides to parents and students specific information

380 posted and accessible online that includes, but is not limited

381 to, the following teacher-parent and teacher-student contact

382 information for each course:

383 a. How to contact the instructor via phone, e-mail, or

384 online messaging tools.

385 b. How to contact technical support via phone, e-mail, or

386 online messaging tools.

387 c. How to contact the administration office via phone, e-

388 mail, or online messaging tools.

389 d. Any requirement for regular contact with the instructor

390 for the course and clear expectations for meeting the

391 requirement.

392 e. The requirement that the instructor in each course must,

393 at a minimum, conduct one contact via phone with the parent and

394 the student each month;

395 5. Possesses prior, successful experience offering online

396 courses to elementary, middle, or high school students as

397 demonstrated by quantified student learning gains in each

398 subject area and grade level provided for consideration as an

399 instructional program option. However, for a provider without

400 sufficient prior, successful experience offering online courses,

401 the department may conditionally approve the provider to offer

402 courses measured pursuant to subparagraph (8) (a)2. Conditional

403 approval shall be valid for 1 school year only and, based on the

404 provider's experience in offering the courses, the department

405 shall determine whether to grant approval to offer a virtual

406 instruction program. However, the department may conditionally

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407 approve a provider for 2 school years at its discretion based on
408 the provider's success in other states;

409 6. Is accredited by a regional accrediting association as
410 defined by State Board of Education rule;

411 7. Ensures instructional and curricular quality through a
412 detailed curriculum and student performance accountability plan
413 that addresses every subject and grade level it intends to
414 provide through contract with the school district, including:

415 a. Courses and programs that meet the standards of the
416 International Association for K-12 Online Learning and the
417 Southern Regional Education Board.

418 b. Instructional content and services that align with, and
419 measure student attainment of, student proficiency in the Next
420 Generation Sunshine State Standards.

421 c. Mechanisms that determine and ensure that a student has
422 satisfied requirements for grade level promotion and high school
423 graduation with a standard diploma, as appropriate;

424 8. Publishes for the general public, in accordance with
425 disclosure requirements adopted in rule by the State Board of
426 Education, as part of its application as a provider and in all
427 contracts negotiated pursuant to this section:

428 a. Information and data about the curriculum of each full-
429 time and part-time program.

430 b. School policies and procedures.

431 c. Certification status and physical location of all
432 administrative and instructional personnel.

433 d. Hours and times of availability of instructional
434 personnel.

435 e. Student-teacher ratios.

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436 f. Student completion and promotion rates.

437 g. Student, educator, and school performance accountability
438 outcomes;

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

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

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