

By Senator Diaz

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1 A bill to be entitled
2 An act relating to charter schools; amending s.
3 1002.33, F.S.; conforming provisions relating to
4 changes made by the act; establishing the High-
5 Performing Charter School Council; providing the
6 purpose of the council; providing for membership of
7 the council; providing that applications submitted to
8 the council must comply with specified requirements;
9 providing the review process for applications for
10 charter schools submitted to the council; providing
11 the process for approving or denying a charter school
12 application submitted to the council; requiring the
13 council to submit a written recommendation to the
14 State Board of Education as to whether an application
15 should be approved or denied within a specified
16 timeframe; providing requirements for such
17 recommendation; providing construction; requiring the
18 state board to accept or deny such recommendation
19 within a specified timeframe; providing the process
20 for the acceptance or denial of such recommendation;
21 providing construction; authorizing charter school
22 sponsors and applicants to provide input to the state
23 board regarding the council's recommendation;
24 requiring the Commissioner of Education to receive and
25 make such input available to the state board within a
26 specified timeframe; providing grounds on which the
27 council may recommend denial of, or the state board
28 may deny, an application submitted by a high-
29 performing charter school or a high-performing charter

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30 school system; providing construction; amending s.
31 1002.331, F.S.; conforming a provision to changes made
32 by the act; deleting a requirement that the
33 commissioner provide a letter to the sponsor verifying
34 that a charter school meets specified criteria;
35 amending s. 1002.332, F.S.; conforming provisions to
36 changes made by the act; providing an effective date.
37

38 Be It Enacted by the Legislature of the State of Florida:
39

40 Section 1. Present paragraphs (f) and (g) of subsection (6)
41 of section 1002.33, Florida Statutes, are redesignated as
42 paragraphs (g) and (h), respectively, a new paragraph (f) is
43 added to that subsection, and paragraph (b) of that subsection
44 is amended, to read:

45 1002.33 Charter schools.—

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

48 (b) A sponsor shall receive and review ~~all~~ applications for
49 a charter school using the evaluation instrument developed by
50 the Department of Education. A sponsor shall receive and
51 consider charter school applications received on or before
52 August 1 of each calendar year for charter schools to be opened
53 at the beginning of the school district's next school year, or
54 to be opened at a time agreed to by the applicant and the
55 sponsor. A sponsor may not refuse to receive a charter school
56 application submitted before August 1 and may receive an
57 application submitted later than August 1 if it chooses.
58 Beginning in 2018 and thereafter, a sponsor shall receive and

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59 consider charter school applications received on or before
60 February 1 of each calendar year for charter schools to be
61 opened 18 months later at the beginning of the school district's
62 school year, or to be opened at a time determined by the
63 applicant. A sponsor may not refuse to receive a charter school
64 application submitted before February 1 and may receive an
65 application submitted later than February 1 if it chooses. A
66 sponsor may not charge an applicant for a charter any fee for
67 the processing or consideration of an application, and a sponsor
68 may not base its consideration or approval of a final
69 application upon the promise of future payment of any kind.
70 Before approving or denying any application, the sponsor shall
71 allow the applicant, upon receipt of written notification, at
72 least 7 calendar days to make technical or nonsubstantive
73 corrections and clarifications, including, but not limited to,
74 corrections of grammatical, typographical, and like errors or
75 missing signatures, if such errors are identified by the sponsor
76 as cause to deny the final application.

77 1. In order to facilitate an accurate budget projection
78 process, a sponsor shall be held harmless for FTE students who
79 are not included in the FTE projection due to approval of
80 charter school applications after the FTE projection deadline.
81 In a further effort to facilitate an accurate budget projection,
82 within 15 calendar days after receipt of a charter school
83 application, a sponsor shall report to the Department of
84 Education the name of the applicant entity, the proposed charter
85 school location, and its projected FTE.

86 2. In order to ensure fiscal responsibility, an application
87 for a charter school shall include a full accounting of expected

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88 assets, a projection of expected sources and amounts of income,
89 including income derived from projected student enrollments and
90 from community support, and an expense projection that includes
91 full accounting of the costs of operation, including start-up
92 costs.

93 ~~3.a.~~ A sponsor shall ~~by a majority vote~~ approve or deny an
94 application by a majority vote no later than 90 calendar days
95 after the application is received, unless the sponsor and the
96 applicant mutually agree in writing to temporarily postpone the
97 vote to a specific date, at which time the sponsor shall by a
98 majority vote approve or deny the application. If the sponsor
99 fails to act on the application, an applicant may appeal to the
100 State Board of Education as provided in paragraph (c). If an
101 application is denied, the sponsor ~~shall~~, within 10 calendar
102 days after such denial, shall articulate in writing the specific
103 reasons, based upon good cause, supporting its denial of the
104 application and shall provide the letter of denial and
105 supporting documentation to the applicant and to the Department
106 of Education.

107 ~~b.~~ An application submitted by a high-performing charter
108 school identified pursuant to s. 1002.331 or a high-performing
109 charter school system identified pursuant to s. 1002.332 may be
110 denied by the sponsor only if the sponsor demonstrates by clear
111 and convincing evidence that:

112 ~~(I)~~ The application of a high-performing charter school
113 does not materially comply with the requirements in paragraph
114 (a) or, for a high-performing charter school system, the
115 application does not materially comply with s. 1002.332(2)(b);

116 ~~(II)~~ The charter school proposed in the application does

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117 ~~not materially comply with the requirements in paragraphs~~
118 ~~(9)(a)-(f);~~

119 ~~(III) The proposed charter school's educational program~~
120 ~~does not substantially replicate that of the applicant or one of~~
121 ~~the applicant's high-performing charter schools;~~

122 ~~(IV) The applicant has made a material misrepresentation or~~
123 ~~false statement or concealed an essential or material fact~~
124 ~~during the application process; or~~

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

128
129 ~~Material noncompliance is a failure to follow requirements or a~~
130 ~~violation of prohibitions applicable to charter school~~
131 ~~applications, which failure is quantitatively or qualitatively~~
132 ~~significant either individually or when aggregated with other~~
133 ~~noncompliance. An applicant is considered to be replicating a~~
134 ~~high-performing charter school if the proposed school is~~
135 ~~substantially similar to at least one of the applicant's high-~~
136 ~~performing charter schools and the organization or individuals~~
137 ~~involved in the establishment and operation of the proposed~~
138 ~~school are significantly involved in the operation of replicated~~
139 ~~schools.~~

140 ~~e. If the sponsor denies an application submitted by a~~
141 ~~high-performing charter school or a high-performing charter~~
142 ~~school system, the sponsor must, within 10 calendar days after~~
143 ~~such denial, state in writing the specific reasons, based upon~~
144 ~~the criteria in sub-subparagraph b., supporting its denial of~~
145 ~~the application and must provide the letter of denial and~~

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146 ~~supporting documentation to the applicant and to the Department~~
147 ~~of Education. The applicant may appeal the sponsor's denial of~~
148 ~~the application in accordance with paragraph (c).~~

149 4. For budget projection purposes, the sponsor shall report
150 to the Department of Education the approval or denial of an
151 application within 10 calendar days after such approval or
152 denial. In the event of approval, the report to the Department
153 of Education shall include the final projected FTE for the
154 approved charter school.

155 5. Upon approval of an application, the initial startup
156 shall commence with the beginning of the public school calendar
157 for the district in which the charter is granted. A charter
158 school may defer the opening of the school's operations for up
159 to 3 years to provide time for adequate facility planning. The
160 charter school must provide written notice of such intent to the
161 sponsor and the parents of enrolled students at least 30
162 calendar days before the first day of school.

163 (f)1. The High-Performing Charter School Council is
164 established to review and recommend approval or denial to the
165 state board of applications submitted by high-performing charter
166 schools, pursuant to s. 1002.331, and by high-performing charter
167 school systems, pursuant to s. 1002.332.

168 2. The commissioner shall appoint a sufficient number of
169 members to the council to ensure a fair and impartial review of
170 applications. Members shall serve without compensation but may
171 be reimbursed for travel and per diem expenses in conjunction
172 with their service. Of the members reviewing an application,
173 one-half must represent currently operating charter schools and
174 one-half must represent sponsors. At least one of the members

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175 representing charter schools must be from a high-performing
176 charter school or a high-performing charter school system. The
177 commissioner or a named designee shall chair the council.

178 3.a. Applications submitted to the council by high-
179 performing charter schools and high-performing charter school
180 systems must comply with the application format developed by the
181 department and the applicant must provide a copy of the
182 application to the sponsor within 3 days after it is submitted
183 to the council. Applications are subject to the requirements of
184 paragraph (a), which the council shall consider in making its
185 recommendation to approve or deny an application.

186 b. The council shall review applications for a high-
187 performing charter school using the evaluation instrument
188 developed by the department. The council shall consider high-
189 performing charter school applications received on or before
190 February 1 of each calendar year for charter schools to be
191 opened 18 months later at the beginning of the school district's
192 school year, or to be opened at a time determined by the
193 applicant. The council may receive an application submitted
194 after February 1 if the council chooses. The council shall allow
195 an applicant, upon receipt of written notification, at least 7
196 calendar days to make technical or nonsubstantial corrections
197 and clarifications if such errors may cause the council to
198 recommend denial of the application.

199 c. A sponsor may provide input to the council within 15
200 days after receiving a copy of the final application submitted
201 to the council. The council shall consider such input in
202 reviewing the application.

203 4.a. The council shall recommend to approve or deny an

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204 application by majority vote no later than 30 calendar days
205 after the final application is received, unless the council and
206 the applicant mutually agree in writing to temporarily postpone
207 the vote to a specific date. If the council fails to act on the
208 application within 30 days after receipt, the application must
209 be submitted to the state board for action.

210 b. The council shall submit a written recommendation, which
211 must include fact-based justification, to the state board as to
212 whether an application should be approved or denied within 10
213 days after its decision. If the council recommends denial of the
214 application, the council must state in writing the specific
215 reasons, based on the criteria in sub-subparagraph 5.c.,
216 supporting its denial of the application. The council shall also
217 provide the written recommendation and justification to the
218 applicant and the sponsor within 10 days after it makes its
219 decision. The recommendation of the council is not subject to
220 chapter 120.

221 5.a. The state board shall accept or deny the
222 recommendation of the council by majority vote no later than 60
223 calendar days after it receives the recommendation of the
224 council. If the state board approves an application, the sponsor
225 must begin development of the charter pursuant to subsection (7)
226 within 30 days. If the state board denies an application
227 submitted by a high-performing charter school or a high-
228 performing charter school system, the state board must identify
229 in writing the specific reasons, based upon the criteria in sub-
230 subparagraph c., for its denial of the application. The state
231 board's decision is a final action subject to judicial review in
232 the district court of appeal. The decision of the state board is

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233 not subject to chapter 120.

234 b. No later than 30 days after receipt of the council's
235 decision, the sponsor and applicant may provide input to the
236 state board regarding the council's recommendation. The
237 commissioner shall receive and make such input available to the
238 state board at least 7 calendar days before the date on which
239 the recommendation by the council is considered.

240 c. An application submitted by a high-performing charter
241 school identified pursuant to s. 1002.331 or a high-performing
242 charter school system identified pursuant to s. 1002.332 may be
243 recommended for denial by the council or denied by the state
244 board only if the council or state board demonstrates by clear
245 and convincing evidence that:

246 (I) The application of a high-performing charter school
247 does not materially comply with the requirements in paragraph
248 (a) or, for a high-performing charter school system, the
249 application does not materially comply with s. 1002.332(2)(b);

250 (II) The charter school proposed in the application does
251 not materially comply with the requirements in paragraphs
252 (9)(a)-(f);

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

256 (IV) The applicant has made a material misrepresentation or
257 false statement or concealed an essential or material fact
258 during the application process; or

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

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262
263 Material noncompliance is a failure to follow requirements or a
264 violation of prohibitions applicable to charter school
265 applications, which failure is quantitatively or qualitatively
266 significant either individually or when aggregated with other
267 noncompliance. An applicant is considered to be replicating a
268 high-performing charter school if the proposed school is
269 substantially similar to at least one of the applicant's high-
270 performing charter schools and the organization or individuals
271 involved in the establishment and operation of the proposed
272 school are significantly involved in the operation of replicated
273 schools.

274 Section 2. Paragraph (a) of subsection (3) and subsection
275 (4) of section 1002.331, Florida Statutes, are amended to read:
276 1002.331 High-performing charter schools.—

277 (3) (a) ~~1~~. A high-performing charter school may submit an
278 application to the High-Performing Charter School Council
279 pursuant to s. 1002.33(6) to operate in any school district in
280 the state to establish and operate a new charter school that
281 will substantially replicate its educational program. An
282 application submitted by a high-performing charter school must
283 state that the application is being submitted pursuant to this
284 paragraph and must include the verification letter provided by
285 the Commissioner of Education pursuant to subsection (4).

286 ~~2. If the sponsor fails to act on the application within 90~~
287 ~~days after receipt, the application is deemed approved and the~~
288 ~~procedure in s. 1002.33(7) applies.~~

289 (4) The Commissioner of Education, upon request by a
290 charter school, shall verify that the charter school meets the

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291 criteria in subsection (1) and provide a letter to the charter
292 school ~~and the sponsor~~ stating that the charter school is a
293 high-performing charter school pursuant to this section. The
294 commissioner shall annually determine whether a high-performing
295 charter school under subsection (1) continues to meet the
296 criteria in that subsection. Such high-performing charter school
297 shall maintain its high-performing status unless the
298 commissioner determines that the charter school no longer meets
299 the criteria in subsection (1), at which time the commissioner
300 shall send a letter providing notification of its
301 declassification as a high-performing charter school.

302 Section 3. Paragraphs (b) and (c) of subsection (2) of
303 section 1002.332, Florida Statutes, are amended to read:

304 1002.332 High-performing charter school system.-

305 (2)

306 (b) A high-performing charter school system may replicate
307 its high-performing charter schools in any school district in
308 the state. The applicant must submit an application to the High-
309 Performing Charter School Council using the standard application
310 form prepared by the Department of Education which:

311 1. Contains goals and objectives for improving student
312 learning and a process for measuring student improvement. These
313 goals and objectives must indicate how much academic improvement
314 students are expected to demonstrate each year, how success will
315 be evaluated, and the specific results to be attained through
316 instruction.

317 2. Contains an annual financial plan for each year
318 requested by the charter for operation of the school for up to 5
319 years. This plan must contain anticipated fund balances based on

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320 revenue projections, a spending plan based on projected revenue
321 and expenses, and a description of controls that will safeguard
322 finances and projected enrollment trends.

323 3. Discloses the name of each applicant, governing board
324 member, and all proposed education services providers; the name
325 and sponsor of any charter school operated by each applicant,
326 each governing board member, and each proposed education
327 services provider that has closed and the reasons for the
328 closure; and the academic and financial history of such charter
329 schools, which the High-Performing Charter School Council
330 ~~sponsor~~ shall consider when deciding whether to recommend
331 approval or denial of ~~approve or deny~~ the application.

332 (c) An application submitted by a high-performing charter
333 school system must state that the application is being submitted
334 pursuant to this section and must include the verification
335 letter provided by the Commissioner of Education pursuant to
336 this subsection. ~~If the sponsor fails to act on the application~~
337 ~~within 90 days after receipt, the application is deemed approved~~
338 ~~and the procedure in s. 1002.33(7) applies.~~

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