

By the Committee on Education; and Senator Diaz

581-02225-20

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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 shall provide input to the council within 15  
200 days after receiving a copy of the final application submitted  
201 to the council. The sponsor shall articulate in writing the  
202 specific reasons, based upon good cause shown, for its  
203 recommendation for denial or approval of the application and

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204 shall provide supporting documentation to the applicant. The  
205 input provided by the sponsor must be included in the  
206 application that is provided to the state board.

207 4.a. The council shall recommend to approve or deny an  
208 application by majority vote no later than 30 calendar days  
209 after the final application is received, unless the council and  
210 the applicant mutually agree in writing to temporarily postpone  
211 the vote to a specific date. If the council fails to act on the  
212 application within 30 days after receipt, the application must  
213 be submitted to the state board for action.

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

225 5.a. The state board shall accept or deny the  
226 recommendation of the council by majority vote no later than 60  
227 calendar days after it receives the recommendation of the  
228 council. If the state board approves an application, the sponsor  
229 must begin development of the charter pursuant to subsection (7)  
230 within 30 days. If the state board denies an application  
231 submitted by a high-performing charter school or a high-  
232 performing charter school system, the state board must identify



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233 in writing the specific reasons, based upon the criteria in sub-  
234 subparagraph c., for its denial of the application. The state  
235 board's decision is a final action subject to judicial review in  
236 the district court of appeal. The decision of the state board is  
237 not subject to chapter 120.

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

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

250 (I) The application of a high-performing charter school  
251 does not materially comply with the requirements in paragraph  
252 (a) or, for a high-performing charter school system, the  
253 application does not materially comply with s. 1002.332(2)(b);

254 (II) The charter school proposed in the application does  
255 not materially comply with the requirements in paragraphs  
256 (9)(a)-(f);

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

260 (IV) The applicant has made a material misrepresentation or  
261 false statement or concealed an essential or material fact

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262 during the application process; or

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

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

278 Section 2. Paragraph (a) of subsection (3) and subsection  
279 (4) of section 1002.331, Florida Statutes, are amended to read:

280 1002.331 High-performing charter schools.—

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

290 ~~2. If the sponsor fails to act on the application within 90~~

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291 ~~days after receipt, the application is deemed approved and the~~  
292 ~~procedure in s. 1002.33(7) applies.~~

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

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

308 1002.332 High-performing charter school system.—

309 (2)

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

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

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320 instruction.

321 2. Contains an annual financial plan for each year  
322 requested by the charter for operation of the school for up to 5  
323 years. This plan must contain anticipated fund balances based on  
324 revenue projections, a spending plan based on projected revenue  
325 and expenses, and a description of controls that will safeguard  
326 finances and projected enrollment trends.

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

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

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