

1 A bill to be entitled
 2 An act relating to the establishment of charter
 3 schools; amending s. 1002.33, F.S.; establishing the
 4 New Charter Application Commission; providing purpose
 5 and composition of the commission; providing that
 6 members shall serve without compensation but may be
 7 reimbursed for certain expenses; providing that both
 8 the local school district sponsor and the commission
 9 will function as charter school authorizers; revising
 10 provisions related to charter school applications and
 11 review and denial of such applications; providing that
 12 charter school authorizers may either approve or
 13 recommend denial of an application; providing duties
 14 of local school districts that did not function as
 15 charter school authorizers; providing an effective
 16 date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraphs (b) through (g) of subsection (6) of
 21 section 1002.33, Florida Statutes, are amended to read:

22 1002.33 Charter schools.—

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

25 (b) The New Charter Application Commission is established

26 | to provide a fair and impartial review of new charter school
27 | applications. A local school district sponsor and the New
28 | Charter Application Commission shall both function as charter
29 | school authorizers in this state. The New Charter Application
30 | Commission shall be comprised of seven members with charter
31 | school experience or expertise selected by the Commissioner of
32 | Education. Members shall serve without compensation, but are
33 | entitled to receive reimbursement for per diem and travel
34 | expenses pursuant to s. 112.061. One member of the New Charter
35 | Application Commission shall be designated as the chair by the
36 | Commissioner of Education. The chair shall convene meetings of
37 | the New Charter Application Commission. A charter school
38 | authorizer ~~sponsor~~ shall receive and review all applications for
39 | a charter school using the evaluation instrument developed by
40 | the Department of Education. A charter school authorizer ~~sponsor~~
41 | shall receive and consider charter school applications received
42 | on or before August 1 of each calendar year for charter schools
43 | to be opened at the beginning of the school district's next
44 | school year, or to be opened at a time agreed to by the
45 | applicant and the charter school authorizer ~~sponsor~~. A charter
46 | school authorizer ~~sponsor~~ may not refuse to receive a charter
47 | school application submitted before August 1 and may receive an
48 | application submitted later than August 1 if it chooses.
49 | ~~Beginning in 2018 and thereafter,~~ A charter school authorizer
50 | ~~sponsor~~ shall receive and consider charter school applications

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

71 1. In order to facilitate an accurate budget projection
72 process, a local school district sponsor shall be held harmless
73 for FTE students who are not included in the FTE projection due
74 to approval of charter school applications after the FTE
75 projection deadline. In a further effort to facilitate an

76 | accurate budget projection, within 15 calendar days after
77 | receipt of a charter school application, a local school district
78 | sponsor shall report to the Department of Education the name of
79 | the applicant entity, the proposed charter school location, and
80 | its projected FTE.

81 | 2. In order to ensure fiscal responsibility, an
82 | application for a charter school shall include a full accounting
83 | of expected assets, a projection of expected sources and amounts
84 | of income, including income derived from projected student
85 | enrollments and from community support, and an expense
86 | projection that includes full accounting of the costs of
87 | operation, including start-up costs.

88 | 3.a. A charter school authorizer ~~sponsor~~ shall by a
89 | majority vote approve or recommend the denial of ~~deny~~ an
90 | application no later than 90 calendar days after the application
91 | is received, unless the charter school authorizer ~~sponsor~~ and
92 | the applicant mutually agree in writing to temporarily postpone
93 | the vote to a specific date, at which time the charter school
94 | authorizer ~~sponsor~~ shall by a majority vote approve or recommend
95 | the denial of ~~deny~~ the application. If the charter school
96 | authorizer ~~sponsor~~ fails to act on the application, an applicant
97 | may appeal to the State Board of Education as provided in
98 | paragraph (c). If an application is recommended for denial
99 | ~~denied~~, the charter school authorizer ~~sponsor~~ shall, within 10
100 | calendar days after such recommendation ~~denial~~, articulate in

101 writing the specific reasons, based upon good cause, supporting
102 such recommendation ~~its denial of the application~~ and shall
103 provide a ~~the~~ letter of such recommendation ~~denial~~ and
104 supporting documentation to the applicant and to the Department
105 of Education.

106 b. An application submitted by a high-performing charter
107 school identified pursuant to s. 1002.331 or a high-performing
108 charter school system identified pursuant to s. 1002.332 may be
109 recommended for denial ~~denied~~ by the charter school authorizer
110 ~~sponsor~~ only if it ~~the sponsor~~ demonstrates by clear and
111 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
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
123 or 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 c. If the charter school authorizer recommends denial of
141 ~~sponsor denies~~ an application submitted by a high-performing
142 charter school or a high-performing charter school system, the
143 charter school authorizer ~~sponsor~~ must, within 10 calendar days
144 after such recommendation ~~denial~~, state in writing the specific
145 reasons, based upon the criteria in sub-subparagraph b.,
146 supporting such recommendation ~~its denial of the application~~ and
147 must provide a ~~the~~ letter of such recommendation ~~denial~~ and
148 supporting documentation to the applicant and to the Department
149 of Education. The applicant may appeal such recommendation ~~the~~
150 ~~sponsor's denial of the application~~ in accordance with paragraph

151 (c).

152 4. For budget projection purposes, the charter school
153 authorizer ~~sponsor~~ shall report to the Department of Education
154 the approval or recommendation for denial of an application
155 within 10 calendar days after such approval or recommendation
156 ~~denial~~. In the event of approval, the report to the Department
157 of Education shall include the final projected FTE for the
158 approved charter school.

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

167 (c)1. An applicant may appeal any recommended denial of
168 that applicant's application or failure to act on an application
169 to the State Board of Education no later than 30 calendar days
170 after receipt of the charter school authorizer's ~~sponsor's~~
171 decision or failure to act and shall notify the charter school
172 authorizer ~~sponsor~~ of its appeal. Any response of the charter
173 school authorizer ~~sponsor~~ shall be submitted to the State Board
174 of Education within 30 calendar days after notification of the
175 appeal. Upon receipt of notification from the State Board of

176 Education that a charter school applicant is filing an appeal,
177 the Commissioner of Education shall convene a meeting of the
178 Charter School Appeal Commission to study and make
179 recommendations to the State Board of Education regarding its
180 pending decision about the appeal. The commission shall forward
181 its recommendation to the state board at least 7 calendar days
182 before the date on which the appeal is to be heard.

183 2. The Charter School Appeal Commission may reject an
184 appeal submission for failure to comply with procedural rules
185 governing the appeals process. The rejection shall describe the
186 submission errors. The appellant shall have 15 calendar days
187 after notice of rejection in which to resubmit an appeal that
188 meets the requirements set forth in State Board of Education
189 rule. An appeal submitted subsequent to such rejection is
190 considered timely if the original appeal was filed within 30
191 calendar days after receipt of notice of the specific reasons
192 for the local school district sponsor's recommendation of denial
193 of the charter application.

194 3.a. The State Board of Education shall by majority vote
195 accept or reject the recommendation ~~decision~~ of the charter
196 school authorizer ~~sponsor~~ no later than 90 calendar days after
197 an appeal is filed in accordance with State Board of Education
198 rule. The State Board of Education shall remand the application
199 to the charter school authorizer ~~sponsor~~ with its written
200 decision to ~~that the sponsor~~ approve or deny the application.

201 The local school district in which the new charter school is to
202 be located shall be the sponsor and shall implement the decision
203 of the State Board of Education regardless of whether the local
204 school district functioned as the charter school authorizer. The
205 decision of the State Board of Education is not subject to ~~the~~
206 ~~provisions of~~ the Administrative Procedure Act, chapter 120.

207 b. If an appeal concerns an application submitted by a
208 high-performing charter school identified pursuant to s.
209 1002.331 or a high-performing charter school system identified
210 pursuant to s. 1002.332, the State Board of Education shall
211 determine whether the charter school authorizer's ~~sponsor's~~
212 recommendation of denial was in accordance with sub-subparagraph
213 (b)3.b.

214 (d) The local school district sponsor shall act upon the
215 decision of the State Board of Education within 30 calendar days
216 after it is received. The State Board of Education's decision is
217 a final action subject to judicial review in the district court
218 of appeal.

219 (e) If a charter application made to the New Charter
220 Application Commission has been approved by the State Board of
221 Education, the New Charter Application Commission shall forward
222 the application to the local school district sponsor for:

223 1. Negotiation of the standard charter contract with the
224 charter school applicant using the same standard charter
225 contract and method of funding used for charter schools where

226 | the local school district functioned as the charter school
227 | authorizer.

228 | 2. Further implementation of its constitutional duties to
229 | operate, control, and supervise the new charter school.

230 | (f)1.(e)1. A Charter School Appeal Commission is
231 | established to assist the commissioner and the State Board of
232 | Education with a fair and impartial review of appeals by
233 | applicants whose charter applications have been recommended for
234 | denial by a charter school authorizer ~~denied, whose charter~~
235 | ~~contracts have not been renewed, or whose charter contracts have~~
236 | ~~been terminated by their sponsors.~~

237 | 2. The Charter School Appeal Commission may receive copies
238 | of the appeal documents forwarded to the State Board of
239 | Education, review the documents, gather other applicable
240 | information regarding the appeal, and make a written
241 | recommendation to the commissioner. The recommendation must
242 | state whether the appeal should be upheld or denied and include
243 | the reasons for the recommendation being offered. The
244 | commissioner shall forward the recommendation to the State Board
245 | of Education no later than 7 calendar days before ~~prior to~~ the
246 | date on which the appeal is to be heard. The state board must
247 | consider the Charter School Appeal Commission's recommendation
248 | in making its decision, but is not bound by the recommendation.
249 | The decision of the Charter School Appeal Commission is not
250 | subject to ~~the provisions of~~ the Administrative Procedure Act,

251 chapter 120.

252 3. The commissioner shall appoint a number of members to
253 the Charter School Appeal Commission sufficient to ensure that a
254 ~~ne~~ potential conflict of interest does not exist ~~exists~~ for any
255 Charter School Appeal Commission appeal decision. Members shall
256 serve without compensation but may be reimbursed for travel and
257 per diem expenses in conjunction with their service. Of the
258 members hearing the appeal, one-half must represent currently
259 operating charter schools and one-half must represent sponsors.
260 The commissioner or a named designee shall chair the Charter
261 School Appeal Commission.

262 4. The chair shall convene meetings of the Charter School
263 Appeal Commission and shall ensure that the written
264 recommendations are completed and forwarded in a timely manner.
265 In cases where the Charter School Appeal Commission cannot reach
266 a decision, the chair shall make the written recommendation with
267 justification, noting that the decision was rendered by the
268 chair.

269 5. Charter School Appeal Commission members shall
270 thoroughly review the materials presented to them from the
271 appellant and the charter school authorizer ~~sponsor~~. The Charter
272 School Appeal Commission may request information to clarify the
273 documentation presented to it. In the course of its review, the
274 Charter School Appeal Commission may facilitate the postponement
275 of an appeal in those cases where additional time and

276 communication may negate the need for a formal appeal and both
277 parties agree, in writing, to postpone the appeal to the State
278 Board of Education. A new date certain for the appeal shall then
279 be set based upon the rules and procedures of the State Board of
280 Education. Charter School Appeal Commission members shall
281 provide a written recommendation to the state board as to
282 whether the appeal should be upheld or denied. A fact-based
283 justification for the recommendation must be included. The chair
284 must ensure that the written recommendation is submitted to the
285 State Board of Education members no later than 7 calendar days
286 before ~~prior to~~ the date on which the appeal is to be heard.
287 Both parties in the case shall also be provided a copy of the
288 recommendation.

289 (g)1. ~~(f)1.~~ The Department of Education shall provide or
290 arrange for training and technical assistance to charter schools
291 in developing and adjusting business plans and accounting for
292 costs and income. Training and technical assistance shall also
293 address, at a minimum, state and federal grant and student
294 performance accountability reporting requirements and provide
295 assistance in identifying and applying for the types and amounts
296 of state and federal financial assistance the charter school may
297 be eligible to receive. The department may provide other
298 technical assistance to an applicant upon written request.

299 2. A charter school applicant must participate in the
300 training provided by the Department of Education after approval

301 of an application but at least 30 calendar days before the first
302 day of classes at the charter school. However, a sponsor may
303 require the charter school applicant to attend training provided
304 by the sponsor in lieu of the department's training if the
305 sponsor's training standards meet or exceed the standards
306 developed by the department. In such case, the sponsor may not
307 require the charter school applicant to attend the training
308 within 30 calendar days before the first day of classes at the
309 charter school. The training must include instruction in
310 accurate financial planning and good business practices. If the
311 applicant is a management company or a nonprofit organization,
312 the charter school principal and the chief financial officer or
313 his or her equivalent must also participate in the training. A
314 sponsor may not require a high-performing charter school or
315 high-performing charter school system applicant to participate
316 in the training described in this subparagraph more than once.

317 (h) ~~(g)~~ In considering charter applications for a lab
318 school, a state university shall consult with the district
319 school board of the county in which the lab school is located.
320 The decision of a state university may be appealed pursuant to
321 the procedure established in this subsection.

322 Section 2. This act shall take effect July 1, 2021.