

By Senator Gruters

23-01333A-21

20211468__

1 A bill to be entitled
2 An act relating to charter schools; amending s.
3 1002.33, F.S.; revising requirements for the charter
4 school application process; authorizing certain assets
5 of specified charter schools to be used for certain
6 other charter schools across the state; amending s.
7 1002.331, F.S.; revising provisions relating to the
8 opening of additional high-performing charter schools;
9 providing applicability; amending s. 1002.45, F.S.;
10 authorizing a virtual charter school to provide part-
11 time virtual instruction and be an approved provider;
12 authorizing a virtual charter school to contract with
13 a public or charter school, rather than enter into an
14 agreement with a school district, for specified
15 purposes; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Paragraph (b) of subsection (5), paragraph (b)
20 of subsection (6), and paragraph (b) of subsection (17) of
21 section 1002.33, Florida Statutes, are amended to read:

22 1002.33 Charter schools.—

23 (5) SPONSOR; DUTIES.—

24 (b) *Sponsor duties*.—

25 1.a. The sponsor shall monitor and review the charter
26 school in its progress toward the goals established in the
27 charter.

28 b. The sponsor shall monitor the revenues and expenditures
29 of the charter school and perform the duties provided in s.

23-01333A-21

20211468__

30 1002.345.

31 c. The sponsor may approve a charter for a charter school
32 before the applicant has identified space, equipment, or
33 personnel, if the applicant indicates approval is necessary for
34 it to raise working funds.

35 d. The sponsor shall not apply its policies to a charter
36 school unless mutually agreed to by both the sponsor and the
37 charter school. If the sponsor subsequently amends any agreed-
38 upon sponsor policy, the version of the policy in effect at the
39 time of the execution of the charter, or any subsequent
40 modification thereof, shall remain in effect and the sponsor may
41 not hold the charter school responsible for any provision of a
42 newly revised policy until the revised policy is mutually agreed
43 upon.

44 e. The sponsor shall ensure that the charter is innovative
45 and consistent with the state education goals established by s.
46 1000.03(5).

47 f. The sponsor shall ensure that the charter school
48 participates in the state's education accountability system. If
49 a charter school falls short of performance measures included in
50 the approved charter, the sponsor shall report such shortcomings
51 to the Department of Education.

52 g. The sponsor shall not be liable for civil damages under
53 state law for personal injury, property damage, or death
54 resulting from an act or omission of an officer, employee,
55 agent, or governing body of the charter school.

56 h. The sponsor shall not be liable for civil damages under
57 state law for any employment actions taken by an officer,
58 employee, agent, or governing body of the charter school.

23-01333A-21

20211468__

59 i. The sponsor's duties to monitor the charter school shall
60 not constitute the basis for a private cause of action.

61 j. The sponsor shall not impose additional reporting
62 requirements on a charter school without providing reasonable
63 and specific justification in writing to the charter school.

64 k. The sponsor shall submit an annual report to the
65 Department of Education in a web-based format to be determined
66 by the department.

67 (I) The report shall include the following information:

68 (A) The number of draft applications received ~~on or before~~
69 ~~May 1~~ and each applicant's contact information.

70 (B) The number of final applications received ~~on or before~~
71 ~~August 1~~ and each applicant's contact information.

72 (C) The date each application was approved, denied, or
73 withdrawn.

74 (D) The date each final contract was executed.

75 (II) Beginning August 31, 2013, and each year thereafter,
76 the sponsor shall submit to the department the information for
77 the applications submitted the previous year.

78 (III) The department shall compile an annual report, by
79 district, and post the report on its website by November 1 of
80 each year.

81 2. Immunity for the sponsor of a charter school under
82 subparagraph 1. applies only with respect to acts or omissions
83 not under the sponsor's direct authority as described in this
84 section.

85 3. This paragraph does not waive a district school board's
86 sovereign immunity.

87 4. A Florida College System institution may work with the

23-01333A-21

20211468__

88 school district or school districts in its designated service
89 area to develop charter schools that offer secondary education.
90 These charter schools must include an option for students to
91 receive an associate degree upon high school graduation. If a
92 Florida College System institution operates an approved teacher
93 preparation program under s. 1004.04 or s. 1004.85, the
94 institution may operate no more than one charter school that
95 serves students in kindergarten through grade 12. In
96 kindergarten through grade 8, the charter school shall implement
97 innovative blended learning instructional models in which, for a
98 given course, a student learns in part through online delivery
99 of content and instruction with some element of student control
100 over time, place, path, or pace and in part at a supervised
101 brick-and-mortar location away from home. A student in a blended
102 learning course must be a full-time student of the charter
103 school and receive the online instruction in a classroom setting
104 at the charter school. District school boards shall cooperate
105 with and assist the Florida College System institution on the
106 charter application. Florida College System institution
107 applications for charter schools are not subject to the time
108 deadlines outlined in subsection (6) and may be approved by the
109 district school board at any time during the year. Florida
110 College System institutions may not report FTE for any students
111 who receive FTE funding through the Florida Education Finance
112 Program.

113 5. A school district may enter into nonexclusive interlocal
114 agreements with federal and state agencies, counties,
115 municipalities, and other governmental entities that operate
116 within the geographical borders of the school district to act on

23-01333A-21

20211468__

117 behalf of such governmental entities in the inspection,
118 issuance, and other necessary activities for all necessary
119 permits, licenses, and other permissions that a charter school
120 needs in order for development, construction, or operation. A
121 charter school may use, but may not be required to use, a school
122 district for these services. The interlocal agreement must
123 include, but need not be limited to, the identification of fees
124 that charter schools will be charged for such services. The fees
125 must consist of the governmental entity's fees plus a fee for
126 the school district to recover no more than actual costs for
127 providing such services. These services and fees are not
128 included within the services to be provided pursuant to
129 subsection (20).

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

132 (b) A sponsor shall receive and review all applications for
133 a charter school using the evaluation instrument developed by
134 the Department of Education. A sponsor shall receive and
135 consider charter school applications received during ~~on or~~
136 ~~before August 1~~ of each calendar year for charter schools to be
137 opened at the beginning of the school district's next school
138 year, or to be opened at a time determined ~~agreed to~~ by the
139 applicant ~~and the sponsor~~. A sponsor may not refuse to receive a
140 charter school application submitted by an applicant during the
141 calendar year ~~before August 1~~ and may receive an application
142 ~~submitted later than August 1 if it chooses. Beginning in 2018~~
143 ~~and thereafter, a sponsor shall receive and consider charter~~
144 ~~school applications received on or before February 1 of each~~
145 ~~calendar year for charter schools to be opened 18 months later~~

23-01333A-21

20211468__

146 ~~at the beginning of the school district's school year, or to be~~
147 ~~opened at a time determined by the applicant. A sponsor may not~~
148 ~~refuse to receive a charter school application submitted before~~
149 ~~February 1 and may receive an application submitted later than~~
150 ~~February 1 if it chooses.~~ A sponsor may not charge an applicant
151 for a charter any fee for the processing or consideration of an
152 application, and a sponsor may not base its consideration or
153 approval of a final application upon the promise of future
154 payment of any kind. Before approving or denying any
155 application, the sponsor shall allow the applicant, upon receipt
156 of written notification, at least 7 calendar days to make
157 technical or nonsubstantive corrections and clarifications,
158 including, but not limited to, corrections of grammatical,
159 typographical, and like errors or missing signatures, if such
160 errors are identified by the sponsor as cause to deny the final
161 application.

162 1. In order to facilitate an accurate budget projection
163 process, a sponsor shall be held harmless for FTE students who
164 are not included in the FTE projection due to approval of
165 charter school applications after the FTE projection deadline.
166 In a further effort to facilitate an accurate budget projection,
167 within 15 calendar days after receipt of a charter school
168 application, a sponsor shall report to the Department of
169 Education the name of the applicant entity, the proposed charter
170 school location, and its projected FTE.

171 2. In order to ensure fiscal responsibility, an application
172 for a charter school shall include a full accounting of expected
173 assets, a projection of expected sources and amounts of income,
174 including income derived from projected student enrollments and

23-01333A-21

20211468__

175 from community support, and an expense projection that includes
176 full accounting of the costs of operation, including start-up
177 costs.

178 3.a. A sponsor shall by a majority vote approve or deny an
179 application no later than 90 calendar days after the application
180 is received, unless the sponsor and the applicant mutually agree
181 in writing to temporarily postpone the vote to a specific date,
182 at which time the sponsor shall by a majority vote approve or
183 deny the application. If the sponsor fails to act on the
184 application, an applicant may appeal to the State Board of
185 Education as provided in paragraph (c). If an application is
186 denied, the sponsor shall, within 10 calendar days after such
187 denial, articulate in writing the specific reasons, based upon
188 good cause, supporting its denial of the application and shall
189 provide the letter of denial and supporting documentation to the
190 applicant and to the Department of Education.

191 b. An application submitted by a high-performing charter
192 school identified pursuant to s. 1002.331 or a high-performing
193 charter school system identified pursuant to s. 1002.332 may be
194 denied by the sponsor only if the sponsor demonstrates by clear
195 and convincing evidence that:

196 (I) The application of a high-performing charter school
197 does not materially comply with the requirements in paragraph
198 (a) or, for a high-performing charter school system, the
199 application does not materially comply with s. 1002.332(2)(b);

200 (II) The charter school proposed in the application does
201 not materially comply with the requirements in paragraphs
202 (9)(a)-(f);

203 (III) The proposed charter school's educational program

23-01333A-21

20211468__

204 does not substantially replicate that of the applicant or one of
205 the applicant's high-performing charter schools;

206 (IV) The applicant has made a material misrepresentation or
207 false statement or concealed an essential or material fact
208 during the application process; or

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

212

213 Material noncompliance is a failure to follow requirements or a
214 violation of prohibitions applicable to charter school
215 applications, which failure is quantitatively or qualitatively
216 significant either individually or when aggregated with other
217 noncompliance. An applicant is considered to be replicating a
218 high-performing charter school if the proposed school is
219 substantially similar to at least one of the applicant's high-
220 performing charter schools and the organization or individuals
221 involved in the establishment and operation of the proposed
222 school are significantly involved in the operation of replicated
223 schools.

224 c. If the sponsor denies an application submitted by a
225 high-performing charter school or a high-performing charter
226 school system, the sponsor must, within 10 calendar days after
227 such denial, state in writing the specific reasons, based upon
228 the criteria in sub-subparagraph b., supporting its denial of
229 the application and must provide the letter of denial and
230 supporting documentation to the applicant and to the Department
231 of Education. The applicant may appeal the sponsor's denial of
232 the application in accordance with paragraph (c).

23-01333A-21

20211468__

233 4. For budget projection purposes, the sponsor shall report
234 to the Department of Education the approval or denial of an
235 application within 10 calendar days after such approval or
236 denial. In the event of approval, the report to the Department
237 of Education shall include the final projected FTE for the
238 approved charter school.

239 5. Upon approval of an application, the initial startup
240 shall commence with the beginning of the public school calendar
241 for the district in which the charter is granted. A charter
242 school may defer the opening of the school's operations for up
243 to 3 years to provide time for adequate facility planning. The
244 charter school must provide written notice of such intent to the
245 sponsor and the parents of enrolled students at least 30
246 calendar days before the first day of school.

247 (17) FUNDING.—Students enrolled in a charter school,
248 regardless of the sponsorship, shall be funded as if they are in
249 a basic program or a special program, the same as students
250 enrolled in other public schools in the school district. Funding
251 for a charter lab school shall be as provided in s. 1002.32.

252 (b) The basis for the agreement for funding students
253 enrolled in a charter school shall be the sum of the school
254 district's operating funds from the Florida Education Finance
255 Program as provided in s. 1011.62 and the General Appropriations
256 Act, including gross state and local funds, discretionary
257 lottery funds, and funds from the school district's current
258 operating discretionary millage levy; divided by total funded
259 weighted full-time equivalent students in the school district;
260 multiplied by the weighted full-time equivalent students for the
261 charter school. Charter schools whose students or programs meet

23-01333A-21

20211468__

262 the eligibility criteria in law are entitled to their
263 proportionate share of categorical program funds included in the
264 total funds available in the Florida Education Finance Program
265 by the Legislature, including transportation, the research-based
266 reading allocation, and the Florida digital classrooms
267 allocation. Total funding for each charter school shall be
268 recalculated during the year to reflect the revised calculations
269 under the Florida Education Finance Program by the state and the
270 actual weighted full-time equivalent students reported by the
271 charter school during the full-time equivalent student survey
272 periods designated by the Commissioner of Education. For charter
273 schools operated by a not-for-profit or municipal entity, any
274 unrestricted current and capital assets identified in the
275 charter school's annual financial audit may be used for other
276 charter schools operated by the not-for-profit or municipal
277 entity within this state ~~the school district~~. Unrestricted
278 current assets shall be used in accordance with s. 1011.62, and
279 any unrestricted capital assets shall be used in accordance with
280 s. 1013.62(2).

281 Section 2. Paragraph (b) of subsection (3) of section
282 1002.331, Florida Statutes, is amended to read:

283 1002.331 High-performing charter schools.—

284 (3)

285 (b) A high-performing charter school may submit ~~not~~
286 ~~establish more than~~ two applications for a charter school
287 ~~schools~~ within the state under paragraph (a) to be opened at a
288 time determined by the high-performing charter school ~~in any~~
289 ~~year~~. A subsequent application to establish a charter school
290 under paragraph (a) may not be submitted unless each charter

23-01333A-21

20211468__

291 school applicant commences operations or an application is
292 otherwise withdrawn established in this manner achieves high-
293 performing charter school status. However, a high-performing
294 charter school may establish more than one charter school within
295 the state under paragraph (a) in any year if it operates in the
296 area of a persistently low-performing school and serves students
297 from that school. This paragraph applies to any high-performing
298 charter school with an existing approved application.

299 Section 3. Paragraph (d) of subsection (1) of section
300 1002.45, Florida Statutes, is amended to read:

301 1002.45 Virtual instruction programs.—

302 (1) PROGRAM.—

303 (d) A virtual charter school may provide full-time or part-
304 time virtual instruction for students in kindergarten through
305 grade 12 if the virtual charter school has a charter approved
306 pursuant to s. 1002.33 ~~authorizing full-time virtual~~
307 ~~instruction.~~ A virtual charter school may:

308 1. Contract with the Florida Virtual School.

309 2. Contract with or be an approved provider under
310 subsection (2).

311 3. Contract with any public school or charter school ~~Enter~~
312 ~~into an agreement with a school district~~ to allow the
313 participation of the virtual charter school's students in
314 courses that the virtual school is unable to provide ~~the school~~
315 ~~district's virtual instruction program.~~ The agreement must
316 indicate a process for reporting of student enrollment and the
317 transfer of funds required by paragraph (7) (e).

318 Section 4. This act shall take effect July 1, 2021.