

1 A bill to be entitled
2 An act relating to charter schools; creating s.
3 1002.3301, F.S.; creating the Charter School Review
4 Commission within the Department of Education;
5 providing the purpose of the commission; specifying
6 membership of the commission and the duration of
7 members' terms; requiring the Commissioner of
8 Education to appoint members, subject to confirmation
9 by the Senate; providing that a majority of the
10 commission members constitutes a quorum; providing
11 that the commission has the same powers and duties
12 relating to reviewing and approving charter schools as
13 a sponsor; designating the district school board where
14 a proposed charter school will be located as the new
15 charter school's sponsor and supervisor; requiring a
16 district school board to take specified actions within
17 a certain timeframe after the commission grants a
18 charter school application; authorizing the appeal of
19 commission decisions; amending s. 1002.33, F.S.;
20 providing legislative intent; authorizing the
21 commission to solicit and review certain charter
22 school applications; requiring the district school
23 board that oversees the school district where a
24 charter school approved by the commission will be
25 located to serve as the charter school's sponsor;

26 | prohibiting sponsors from imposing additional
27 | reporting requirements unless a charter school meets
28 | specified criteria; providing that certain interlocal
29 | agreements and ordinances are void and unenforceable;
30 | authorizing charter schools to use school district
31 | interlocal agreements; providing that specified
32 | schools and entities may bring actions against select
33 | officials, employees, or authorities in violation of
34 | specified provisions; providing for the award of
35 | reasonable attorney fees and court costs; revising the
36 | terms and conditions for charter renewal; revising the
37 | procedure and causes for nonrenewal or termination of
38 | a charter; authorizing members of certain committees
39 | of a charter school governing board to attend
40 | specified meetings in person or through the use of
41 | communications media technology; prohibiting a charter
42 | school from being subject to certain land use
43 | regulations if such regulations would not be required
44 | for certain public schools; exempting specified
45 | property from certain ad valorem taxes; providing that
46 | any facility may provide space to charter schools
47 | under its existing zoning and land use designations
48 | without obtaining a special exception, rezoning, or a
49 | land use change; requiring a specified proportionate
50 | share of certain educational impact fees to be

51 designated for the construction of certain charter
 52 school facilities; requiring the Office of Program
 53 Policy Analysis and Government Accountability to
 54 conduct an analysis of charter school capital outlay
 55 and submit a report to the Governor and Legislature by
 56 a specified date; providing an effective date.

57

58 Be It Enacted by the Legislature of the State of Florida:

59

60 Section 1. Section 1002.3301, Florida Statutes, is created
 61 to read:

62 1002.3301 Charter School Review Commission.—The Charter
 63 School Review Commission is created within the Department of
 64 Education to review and approve applications for charter schools
 65 overseen by district school boards.

66 (1) The commission shall consist of seven members who have
 67 charter school experience, selected by the Commissioner of
 68 Education and subject to confirmation by the Senate. The
 69 commissioner shall designate one member as the chair. Each
 70 member shall be appointed to a 4-year term. However, for the
 71 purpose of achieving staggered terms, of the initial
 72 appointments, three members shall be appointed to 2-year terms
 73 and four members shall be appointed to 4-year terms. All
 74 subsequent appointments shall be for 4-year terms. A majority of
 75 the members of the commission constitutes a quorum.

76 (2) The commission has the same powers and duties as
 77 sponsors pursuant to s. 1002.33 in regard to reviewing and
 78 approving charter schools.

79 (3) The district school board of the school district where
 80 the proposed charter school will be located shall be the sponsor
 81 of and supervisor for the new charter school and shall provide
 82 an initial proposed charter contract to the charter school
 83 pursuant to s. 1002.33(7)(b) within 30 calendar days after the
 84 commission's decision granting an application.

85 (4) The decisions of the commission may be appealed in
 86 accordance with s. 1002.33(6)(c).

87 Section 2. Subsection (2), paragraphs (a) and (b) of
 88 subsection (5), paragraph (c) of subsection (7), paragraph (a)
 89 of subsection (8), paragraph (p) of subsection (9), and
 90 paragraphs (a), (c), and (f) of subsection (18) of section
 91 1002.33, Florida Statutes, are amended to read:

92 1002.33 Charter schools.—

93 (2) GUIDING PRINCIPLES; PURPOSE; LEGISLATIVE INTENT.—

94 (a) Charter schools in Florida shall be guided by the
 95 following principles:

96 1. Meet high standards of student achievement while
 97 providing parents flexibility to choose among diverse
 98 educational opportunities within this ~~the~~ state's public school
 99 system.

100 2. Promote enhanced academic success and financial

101 efficiency by aligning responsibility with accountability.

102 3. Provide parents with sufficient information on whether
103 their child is reading at grade level and whether the child
104 gains at least a year's worth of learning for every year spent
105 in the charter school.

106 (b) Charter schools shall fulfill the following purposes:

107 1. Improve student learning and academic achievement.

108 2. Increase learning opportunities for all students, with
109 special emphasis on low-performing students and reading.

110 3. Encourage the use of innovative learning methods.

111 4. Require the measurement of learning outcomes.

112 (c) Charter schools may fulfill the following purposes:

113 1. Create innovative measurement tools.

114 2. Provide rigorous competition within the public school
115 system to stimulate continual improvement in all public schools.

116 3. Expand the capacity of the public school system.

117 4. Mitigate the educational impact created by the
118 development of new residential dwelling units.

119 5. Create new professional opportunities for teachers,
120 including ownership of the learning program at the school site.

121 (d) It is the intent of the Legislature that charter
122 school students be considered as important as all other students
123 in this state and, to that end, comparable funding levels from
124 existing and future sources should be maintained for charter
125 school students.

126 (5) SPONSOR; DUTIES.—
 127 (a) *Sponsoring entities.*—
 128 1. A district school board may sponsor a charter school in
 129 the county over which the district school board has
 130 jurisdiction.
 131 2. A state university may grant a charter to a lab school
 132 created under s. 1002.32 and shall be considered to be the
 133 school's sponsor. Such school shall be considered a charter lab
 134 school.
 135 3. Because needs relating to educational capacity,
 136 workforce qualifications, and career education opportunities are
 137 constantly changing and extend beyond school district
 138 boundaries:
 139 a. A state university may, upon approval by the Department
 140 of Education, solicit applications and sponsor a charter school
 141 to meet regional education or workforce demands by serving
 142 students from multiple school districts.
 143 b. A Florida College System institution may, upon approval
 144 by the Department of Education, solicit applications and sponsor
 145 a charter school in any county within its service area to meet
 146 workforce demands and may offer postsecondary programs leading
 147 to industry certifications to eligible charter school students.
 148 A charter school established under subparagraph (b) 4. may not be
 149 sponsored by a Florida College System institution until its
 150 existing charter with the school district expires as provided

151 under subsection (7).

152 c. Notwithstanding paragraph (6)(b), a state university or
153 Florida College System institution may, at its discretion, deny
154 an application for a charter school.

155 d. The Charter School Review Commission, as authorized
156 under s. 1002.3301, may solicit and review applications for
157 charter schools overseen by district school boards and, upon the
158 commission approving an application, the district school board
159 that oversees the school district where the charter school will
160 be located shall serve as sponsor.

161 (b) *Sponsor duties.*—

162 1.a. The sponsor shall monitor and review the charter
163 school in its progress toward the goals established in the
164 charter.

165 b. The sponsor shall monitor the revenues and expenditures
166 of the charter school and perform the duties provided in s.
167 1002.345.

168 c. The sponsor may approve a charter for a charter school
169 before the applicant has identified space, equipment, or
170 personnel, if the applicant indicates approval is necessary for
171 it to raise working funds.

172 d. The sponsor may ~~shall~~ not apply its policies to a
173 charter school unless mutually agreed to by both the sponsor and
174 the charter school. If the sponsor subsequently amends any
175 agreed-upon sponsor policy, the version of the policy in effect

176 at the time of the execution of the charter, or any subsequent
 177 modification thereof, shall remain in effect and the sponsor may
 178 not hold the charter school responsible for any provision of a
 179 newly revised policy until the revised policy is mutually agreed
 180 upon.

181 e. The sponsor shall ensure that the charter is innovative
 182 and consistent with the state education goals established by s.
 183 1000.03(5).

184 f. The sponsor shall ensure that the charter school
 185 participates in the state's education accountability system. If
 186 a charter school falls short of performance measures included in
 187 the approved charter, the sponsor shall report such shortcomings
 188 to the Department of Education.

189 g. The sponsor is ~~shall~~ not ~~be~~ liable for civil damages
 190 under state law for personal injury, property damage, or death
 191 resulting from an act or omission of an officer, employee,
 192 agent, or governing body of the charter school.

193 h. The sponsor is ~~shall~~ not ~~be~~ liable for civil damages
 194 under state law for any employment actions taken by an officer,
 195 employee, agent, or governing body of the charter school.

196 i. The sponsor's duties to monitor the charter school do
 197 ~~shall~~ not constitute the basis for a private cause of action.

198 j. The sponsor may ~~shall~~ not impose additional reporting
 199 requirements on a charter school as long as the charter school
 200 has not been identified as having a deteriorating financial

201 condition or financial emergency pursuant to s. 1002.345 ~~without~~
 202 ~~providing reasonable and specific justification in writing to~~
 203 ~~the charter school.~~

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

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

208 (A) The number of applications received during the school
 209 year and up to August 1 and each applicant's contact
 210 information.

211 (B) The date each application was approved, denied, or
 212 withdrawn.

213 (C) The date each final contract was executed.

214 (II) Annually, by November 1, the sponsor shall submit to
 215 the department the information for the applications submitted
 216 the previous year.

217 (III) The department shall compile an annual report, by
 218 sponsor, and post the report on its website by January 15 of
 219 each year.

220 2. Immunity for the sponsor of a charter school under
 221 subparagraph 1. applies only with respect to acts or omissions
 222 not under the sponsor's direct authority as described in this
 223 section.

224 3. This paragraph does not waive a sponsor's sovereign
 225 immunity.

226 4. A Florida College System institution may work with the
227 school district or school districts in its designated service
228 area to develop charter schools that offer secondary education.
229 These charter schools must include an option for students to
230 receive an associate degree upon high school graduation. If a
231 Florida College System institution operates an approved teacher
232 preparation program under s. 1004.04 or s. 1004.85, the
233 institution may operate charter schools that serve students in
234 kindergarten through grade 12 in any school district within the
235 service area of the institution. District school boards shall
236 cooperate with and assist the Florida College System institution
237 on the charter application. Florida College System institution
238 applications for charter schools are not subject to the time
239 deadlines outlined in subsection (6) and may be approved by the
240 district school board at any time during the year. Florida
241 College System institutions may not report FTE for any students
242 participating under this subparagraph who receive FTE funding
243 through the Florida Education Finance Program.

244 5. For purposes of assisting the development of a charter
245 school, a school district may enter into nonexclusive interlocal
246 agreements with federal and state agencies, counties,
247 municipalities, and other governmental entities that operate
248 within the geographical borders of the school district to act on
249 behalf of such governmental entities in the inspection,
250 issuance, and other necessary activities for all necessary

251 permits, licenses, and other permissions that a charter school
252 needs in order for development, construction, or operation. A
253 charter school may use, but may not be required to use, a school
254 district for these services. The interlocal agreement must
255 include, but need not be limited to, the identification of fees
256 that charter schools will be charged for such services. The fees
257 must consist of the governmental entity's fees plus a fee for
258 the school district to recover no more than actual costs for
259 providing such services. These services and fees are not
260 included within the services to be provided pursuant to
261 subsection (20). Notwithstanding any other provision of law, an
262 interlocal agreement or ordinance that imposes a greater
263 regulatory burden on charter schools than school districts or
264 that between a school district and a federal or state agency,
265 county, municipality, or other governmental entity which
266 prohibits or limits the creation of a charter school ~~within the~~
267 ~~geographic borders of the school district~~ is void and
268 unenforceable. An interlocal agreement entered into by a school
269 district for the development of only its own schools may be used
270 by charter schools. If a public official or employee, or the
271 local governing authority, refuses to comply with this
272 paragraph, the aggrieved school or entity, or a charter school
273 membership association or charter management organization, has
274 standing and an immediate right to bring an expedited action in
275 circuit court to enforce its rights by a declaratory action,

276 including injunctive relief. A party that receives declaratory
 277 relief may be awarded reasonable attorney fees and court costs.

278 6. The board of trustees of a sponsoring state university
 279 or Florida College System institution under paragraph (a) is the
 280 local educational agency for all charter schools it sponsors for
 281 purposes of receiving federal funds and accepts full
 282 responsibility for all local educational agency requirements and
 283 the schools for which it will perform local educational agency
 284 responsibilities. A student enrolled in a charter school that is
 285 sponsored by a state university or Florida College System
 286 institution may not be included in the calculation of the school
 287 district's grade under s. 1008.34(5) for the school district in
 288 which he or she resides.

289 (7) CHARTER.—The terms and conditions for the operation of
 290 a charter school shall be set forth by the sponsor and the
 291 applicant in a written contractual agreement, called a charter.
 292 The sponsor and the governing board of the charter school shall
 293 use the standard charter contract pursuant to subsection (21),
 294 which shall incorporate the approved application and any addenda
 295 approved with the application. Any term or condition of a
 296 proposed charter contract that differs from the standard charter
 297 contract adopted by rule of the State Board of Education shall
 298 be presumed a limitation on charter school flexibility. The
 299 sponsor may not impose unreasonable rules or regulations that
 300 violate the intent of giving charter schools greater flexibility

301 to meet educational goals. The charter shall be signed by the
302 governing board of the charter school and the sponsor, following
303 a public hearing to ensure community input.

304 (c)1. A charter may be renewed provided that a program
305 review demonstrates that the criteria in paragraph (a) have been
306 successfully accomplished and that none of the grounds for
307 nonrenewal established by paragraph (8)(a) have ~~has~~ been
308 expressly found. The charter of a charter school that meets
309 these requirements and has received a school grade lower than a
310 "B" pursuant to s. 1008.34 in the most recently graded school
311 year must be renewed for no less than a 5-year term except as
312 provided in paragraph (9)(n) documented. In order to facilitate
313 long-term financing for charter school construction, charter
314 schools operating for a minimum of 3 years and demonstrating
315 exemplary academic programming and fiscal management are
316 eligible for a 15-year charter renewal. Such long-term charter
317 is subject to annual review and may be terminated during the
318 term of the charter.

319 2. The 15-year charter renewal that may be granted
320 pursuant to subparagraph 1. must ~~shall~~ be granted to a charter
321 school that has received a school grade of "A" or "B" pursuant
322 to s. 1008.34 in the most recently graded school year 3 ~~of the~~
323 ~~past 4 years~~ and that is not in a state of financial emergency
324 or deficit position as defined by this section. Such long-term
325 charter is subject to annual review and may be terminated during

326 | the term of the charter pursuant to subsection (8).

327 | (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

328 | (a) The sponsor shall make student academic achievement
 329 | for all students the most important factor when determining
 330 | whether to renew or terminate the charter. The sponsor may ~~also~~
 331 | choose not to renew or may terminate the charter only if the
 332 | sponsor expressly finds that one of the grounds set forth below
 333 | exists by clear and convincing evidence:

334 | 1. Failure to participate in the state's education
 335 | accountability system created in s. 1008.31, as required in this
 336 | section, or failure to meet the requirements for student
 337 | performance stated in the charter.

338 | 2. Failure to meet generally accepted standards of fiscal
 339 | management due to deteriorating financial conditions or
 340 | financial emergencies determined pursuant to s. 1002.345.

341 | 3. Material violation of law.

342 | ~~4. Other good cause shown.~~

343 | (9) CHARTER SCHOOL REQUIREMENTS.—

344 | (p)1. Each charter school shall maintain a website that
 345 | enables the public to obtain information regarding the school;
 346 | the school's academic performance; the names of the governing
 347 | board members; the programs at the school; any management
 348 | companies, service providers, or education management
 349 | corporations associated with the school; the school's annual
 350 | budget and its annual independent fiscal audit; the school's

351 grade pursuant to s. 1008.34; and, on a quarterly basis, the
352 minutes of governing board meetings.

353 2. Each charter school's governing board must appoint a
354 representative to facilitate parental involvement, provide
355 access to information, assist parents and others with questions
356 and concerns, and resolve disputes. The representative must
357 reside in the school district in which the charter school is
358 located and may be a governing board member, a charter school
359 employee, or an individual contracted to represent the governing
360 board. If the governing board oversees multiple charter schools
361 in the same school district, the governing board must appoint a
362 separate representative for each charter school in the district.
363 The representative's contact information must be provided
364 annually in writing to parents and posted prominently on the
365 charter school's website. The sponsor may not require governing
366 board members to reside in the school district in which the
367 charter school is located if the charter school complies with
368 this subparagraph.

369 3. Each charter school's governing board must hold at
370 least two public meetings per school year in the school district
371 where the charter school is located. The meetings must be
372 noticed, open, and accessible to the public, and attendees must
373 be provided an opportunity to receive information and provide
374 input regarding the charter school's operations. The appointed
375 representative and charter school principal or director, or his

376 or her designee, must be physically present at each meeting.
377 Members of the governing board or any member of a committee
378 formed or designated by the governing board may attend in person
379 or by means of communications media technology used in
380 accordance with rules adopted by the Administration Commission
381 under s. 120.54(5).

382 (18) FACILITIES.—

383 (a) A startup charter school shall utilize facilities
384 which comply with the Florida Building Code pursuant to chapter
385 553 except for the State Requirements for Educational
386 Facilities. Conversion charter schools shall utilize facilities
387 that comply with the State Requirements for Educational
388 Facilities provided that the school district and the charter
389 school have entered into a mutual management plan for the
390 reasonable maintenance of such facilities. The mutual management
391 plan shall contain a provision by which the district school
392 board agrees to maintain charter school facilities in the same
393 manner as its other public schools within the district. Charter
394 schools, with the exception of conversion charter schools, are
395 not required to comply, but may choose to comply, with the State
396 Requirements for Educational Facilities of the Florida Building
397 Code adopted pursuant to s. 1013.37. The local governing
398 authority shall not adopt or impose any local building
399 requirements or site-development restrictions, such as parking
400 and site-size criteria, student enrollment, and occupant load,

401 that are addressed by and more stringent than those found in the
402 State Requirements for Educational Facilities of the Florida
403 Building Code. A local governing authority must treat charter
404 schools equitably in comparison to similar requirements,
405 restrictions, and site planning processes imposed upon public
406 schools that are not charter schools. A charter school may not
407 be subject to any land use regulation requiring a change to a
408 local government comprehensive plan or requiring a development
409 order or development permit, as those terms are defined in s.
410 163.3164, that would not be required for a public school in the
411 same location. The agency having jurisdiction for inspection of
412 a facility and issuance of a certificate of occupancy or use
413 shall be the local municipality or, if in an unincorporated
414 area, the county governing authority. If a public ~~an~~ official or
415 employee, or of ~~of~~ the local governing authority, refuses to comply
416 with this paragraph, the aggrieved school or entity, or a
417 charter school membership association or charter management
418 organization, has standing and an immediate right to bring an
419 expedited action in circuit court to enforce its rights by a
420 declaratory action, including injunctive relief ~~injunction~~. An
421 aggrieved party that receives declaratory ~~injunctive~~ relief may
422 be awarded attorney fees and court costs.

423 (c) Any property or facility, or portion thereof, utilized
424 by ~~used to house~~ a charter school whose charter has been
425 approved by the sponsor and the governing board, pursuant to

426 subsection (7), is shall be exempt from ad valorem taxes
 427 pursuant to s. 196.1983. Any library, community service, museum,
 428 performing arts, theatre, cinema, church, or college facility;
 429 any facility or land owned by a Florida College System
 430 institution or, college, and university; any similar public
 431 institutional facilities; and any facility recently used to
 432 house a school or child care center may provide space to charter
 433 schools within their facilities under their preexisting zoning
 434 and land use designations without obtaining a special exception,
 435 rezoning, or a land use change.

436 (f) To the extent that charter school facilities are
 437 specifically created to mitigate the educational impact created
 438 by the development of new residential dwelling units, pursuant
 439 to subparagraph (2)(c)4., a proportionate share of costs per
 440 student station ~~some of or all of the~~ educational impact fees
 441 required to be paid in connection with the new residential
 442 dwelling units must ~~may~~ be designated ~~instead~~ for the
 443 construction of the charter school facilities that will mitigate
 444 the student station impact. Such facilities shall be built to
 445 the State Requirements for Educational Facilities and shall be
 446 owned by a public or nonprofit entity. The local school district
 447 retains the right to monitor and inspect such facilities to
 448 ensure compliance with the State Requirements for Educational
 449 Facilities. If a facility ceases to be used for public
 450 educational purposes, either the facility shall revert to the

451 school district subject to any debt owed on the facility, or the
452 owner of the facility shall have the option to refund all
453 educational impact fees utilized for the facility to the school
454 district. The district and the owner of the facility may
455 contractually agree to another arrangement for the facilities if
456 the facilities cease to be used for educational purposes. The
457 owner of property planned or approved for new residential
458 dwelling units and the entity levying educational impact fees
459 shall enter into an agreement that designates the educational
460 impact fees that will be allocated for the charter school
461 student stations and that ensures the timely construction of the
462 charter school student stations concurrent with the expected
463 occupancy of the residential units. The application for use of
464 educational impact fees shall include an approved charter school
465 application. To assist the school district in forecasting
466 student station needs, the entity levying the impact fees shall
467 notify the affected district of any agreements it has approved
468 for the purpose of mitigating student station impact from the
469 new residential dwelling units.

470 Section 3. (1) The Office of Program Policy Analysis and
471 Government Accountability shall conduct an analysis of the
472 current methodologies for the distribution of capital outlay
473 funds to charter schools. Based on its analysis, the office
474 shall recommend any changes to provide an equitable allocation
475 of capital outlay funds for all public schools. The analysis

476 must include, at a minimum:

477 (a) An analysis of the calculation methodology for the
478 allocation of state funds appropriated in the General
479 Appropriations Act under s. 1013.62(2), Florida Statutes.

480 (b) An analysis of the calculation methodology to
481 determine the amount of revenue that a school district must
482 distribute to a charter school under s. 1013.62(3), Florida
483 Statutes.

484 (c) For the most recent 3 years, a comparison of the
485 charter school capital outlay amounts between the allocation of
486 state funds and revenue that would result from the discretionary
487 millage authorized under s. 1011.71(2), Florida Statutes.

488 (d) Other state policies and methodologies for the
489 distribution of charter school capital outlay funds.

490 (2) The office shall submit a report of its findings and
491 recommendations to the Governor, the President of the Senate,
492 and the Speaker of the House of Representatives by January 1,
493 2023.

494 Section 4. This act shall take effect July 1, 2022.