

Committee Substitute for
Committee Substitute for House Bill No. 269

An act relating to school district best financial management practices reviews; creating the “Sharpening the Pencil Act”; amending s. 230.23025, F.S.; providing legislative intent; providing OPPAGA with primary responsibility for the completion of best financial practices reviews; revising areas in which best financial management practices are to be developed and adopted; revising and clarifying the best financial management practices adoption and revision process; clarifying that OPPAGA shall contract with a private firm to perform reviews, provided the review team has certain expertise; authorizing OPPAGA to complete reviews under certain circumstances; authorizing the inclusion of review items in addition to the adopted best financial management practices, after consultation with the school district; requiring consultation with the Commissioner of Education throughout the best-practices-review process; establishing a continuing 5-year review cycle; authorizing the Joint Legislative Auditing Committee to adjust the schedule under certain circumstances; authorizing the review of additional school districts under certain circumstances; specifying that reviews shall be conducted to the extent funded by the Legislature; specifying the use of such funds; providing for district self-assessments; requiring public forums to review final reports; requiring copies of the final report issued by OPPAGA to be provided to additional entities; providing for electronic access to reports; requiring public meetings; revising provisions relating to eligibility for the “Seal of Best Financial Management”; establishing requirements relating to status reports; requiring OPPAGA to review a district’s status reports, assess implementation of the action plan, and assess progress toward implementing the best financial management practices and to issue a report; providing for appearance of school officials before the Legislature upon failure to implement an adopted action plan; clarifying provisions relating to the award of the “Seal of Best Financial Management”; providing for waiver of subsequent reviews under certain circumstances; requiring school districts that are reviewed to maintain certain records; specifying use of cost savings; repealing s. 11.515, F.S., relating to school district performance reviews; repealing s. 230.2302, F.S., relating to performance reviews; repealing s. 230.23026, F.S., relating to the Florida School District Review Trust Fund; amending s. 11.51, F.S., revising duties of the Office of Program Policy Analysis and Government Accountability; amending s. 230.23027, F.S., relating to the Small School District Stabilization Program; conforming provisions to changes made by the act; amending s. 233.43, F.S., relating to duties of superintendent relating to instructional materials; conforming a cross-reference; amending s. 235.2197, F.S., relating to the Florida Frugal Schools Program; conforming cross-references; creating the Land Acquisition and Facilities Advisory Board; providing for appointment of members; providing a review process; providing for board dissolution; amending s.

159.27, F.S.; redefining the term “educational facility” for purposes of part II of ch. 159, F.S., the Florida Industrial Development Financing Act, to include charter schools and developmental research schools; amending s. 228.056, F.S.; providing requirements for conversion to charter schools; establishing new purposes for charter schools; prohibiting a sponsor from charging an application fee; removing a school board’s ability to refuse to follow the recommendation of the State Board of Education for good cause in cases of charter-school appeals; permitting a charter school to admit students on the basis of artistic, academic, or other standards; revising requirements regarding the capacity of the charter school; granting a charter school’s governing board the right to appeal a school board’s decision to terminate a charter school; changing the procedure for granting a charter school an exemption from statutory provisions; revising the requirements for the staff of a charter school; revising procedures relating to the administrative fee charged by a school district; revising requirements for a charter school in the workplace; amending s. 228.0561, F.S.; revising procedures relating to funding for charter-school facilities; amending s. 232.425, F.S.; authorizing charter school students to participate at the public school to which the student would be assigned in any interscholastic extracurricular activity of that school; providing an effective date.

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

Section 1. Short title.—This act may be cited as the “Sharpening the Pencil Act.”

Section 2. Section 230.23025, Florida Statutes, as amended by chapters 97-384, 98-225, 2000-235, and 2000-291, Laws of Florida, is amended to read:

230.23025 Best financial management practices; standards; reviews; designation of districts.—

(1) The purpose of best financial management practices reviews is to improve Florida school district management and use of resources and to identify cost savings. The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Office of the Auditor General are directed to develop a system for reviewing the financial management practices of school districts. In this system, ~~OPPAGA and the Auditor General shall assist OPPAGA in examining jointly examine~~ district operations to determine whether they meet “best financial management practices.”

(2) The best financial management practices adopted by the Commissioner of Education may be updated periodically after consultation with the Legislature, the Governor, the SMART Schools Clearinghouse, the Department of Education, school districts, OPPAGA, and the Auditor General, OPPAGA shall submit to the Commissioner of Education for review and adoption proposed revisions to the best financial management practices adopted by the commissioner. The best financial management practices, at a minimum, must instill public confidence by addressing the school district’s

use of resources; identifying ways that the district could save funds; and improving districts' performance accountability systems, including public accountability. To achieve these objectives, best practices shall be developed for, but need not be limited to, the following areas:

- (a) Management structures.
- (b) Performance accountability.
- (c) Efficient delivery of educational services, including instructional materials.
- (d) Administrative and instructional technology.
- (e) Personnel systems and benefits management.
- (f) Facilities construction.
- (g) Facilities maintenance.
- (h) Student transportation.
- (i) Food service operations.
- (j) Cost control systems, including asset management, risk management, financial management, purchasing, internal auditing, and financial auditing.

In areas for which the commissioner has not adopted best practices, OPPAGA may develop additional best financial management practices, with input from a broad range of stakeholders. OPPAGA shall present any additional best practices to the commissioner for review and adoption. Revised best financial management practices adopted by the commissioner must be used in the next year's scheduled school district reviews conducted according to this section.

~~(a) Efficient use of resources, use of lottery proceeds, student transportation and food service operations, management structures, and personnel systems and benefits, instructional materials, and administrative and instructional technology.~~

~~(b) Compliance with generally accepted accounting principles and state and federal laws relating to financial management.~~

~~(c) Performance accountability systems, including performance measurement reports to the public, internal auditing, financial auditing, and information made available to support decisionmaking.~~

~~(d) Cost control systems, including asset, risk, and financial management, purchasing, and information system controls.~~

~~(e) Safety and security practices at the district and school levels.~~

~~(2) School districts may, by a unanimous vote of the membership of the school board, apply to OPPAGA for a complete best financial management~~

~~practice review or a review of components of the best financial management practices, including management, personnel, transportation, and food and nutrition services. OPPAGA shall prioritize districts for review based on their growth rates and demonstrated need for review. The director of OPPAGA may, at his or her discretion, contract with private consultants to perform part or all of the review of any district. Districts applying for a complete review shall contribute 50 percent of review costs, unless funding for the entire cost of the review is specifically provided by the Legislature. Districts applying for a review of a component shall contribute 75 percent of the review cost. All moneys contributed by any school district under this section toward the cost of a complete or component best financial management practices review of the district shall be deposited into the Florida School District Review Trust Fund administered by OPPAGA.~~

(3) OPPAGA shall contract with a private firm selected through a formal request for proposal process to perform the review, to the extent that funds are provided for this purpose in the General Appropriations Act each year. When sufficient funds are not provided to contract for all the scheduled best financial management practices reviews, OPPAGA shall conduct the remaining reviews scheduled for that year, except as otherwise provided in this act. At least one member of the private firm review team shall have expertise in school district finance. The scope of the review shall focus on the best practices adopted by the Commissioner of Education, pursuant to subsection (2). OPPAGA may include additional items in the scope of the review after seeking input from the school district and the Department of Education.

(4) OPPAGA shall consult with the Commissioner of Education throughout the best practices review process to ensure that the technical expertise of the Department of Education benefits the review process and supports the school districts before, during, and after the review.

(5) It is the intent of the Legislature that each school district shall be subject to a best financial management practices review. The Legislature also intends that all school districts shall be reviewed on a continuing 5-year cycle, as follows, unless specified otherwise in the General Appropriations Act, or as provided in this act:

(a) Year 1: Hillsborough, Sarasota, Collier, Okaloosa, Alachua, St. Lucie, Santa Rosa, Hernando, Indian River, Monroe, Osceola, and Bradford.

(b) Year 2: Miami-Dade, Duval, Volusia, Bay, Columbia, Suwannee, Wakulla, Baker, Union, Hamilton, Jefferson, Gadsden, and Franklin.

(c) Year 3: Palm Beach, Orange, Seminole, Lee, Escambia, Leon, Levy, Taylor, Madison, Gilchrist, Gulf, Dixie, Liberty, and Lafayette.

(d) Year 4: Pinellas, Pasco, Marion, Manatee, Clay, Charlotte, Citrus, Highlands, Nassau, Hendry, Okeechobee, Hardee, DeSoto, and Glades.

(e) Year 5: Broward, Polk, Brevard, Lake, St. Johns, Martin, Putnam, Jackson, Flagler, Walton, Sumter, Holmes, Washington, and Calhoun.

(6)(a) The Joint Legislative Auditing Committee may adjust the schedule of districts to be reviewed when unforeseen circumstances prevent initiation of reviews scheduled in a given year.

(b) Once the 5-year cycle has been completed, reviews shall continue, beginning again with those districts included in year one of the cycle unless a district has requested and received a waiver as provided in subsection (17).

(7) At the direction of the Joint Legislative Auditing Committee or the President of the Senate and the Speaker of the House of Representatives, and subject to funding by the Legislature, OPPAGA may conduct, or contract with a private firm to conduct, up to two additional best financial management practices reviews in districts not scheduled for review during that year if such review is necessary to address adverse financial conditions.

(8) Reviews shall be conducted by OPPAGA and the consultant to the extent specifically funded by the Legislature in the General Appropriations Act for this purpose. Such funds may be used for the cost of reviews by OPPAGA and private consultants contracted by the director of OPPAGA. Costs may include professional services, travel expenses of OPPAGA and staff of the Auditor General, and any other necessary expenses incurred as part of a best financial management practices review.

(9) Districts scheduled for review must complete a self-assessment instrument provided by OPPAGA which indicates the school district's evaluation of its performance on each best practice. The district must begin the self-assessment not later than 60 days prior to the commencement of the review. The completed self-assessment instrument and supporting documentation must be submitted to OPPAGA not later than the date of commencement of the review as notified by OPPAGA. The best practice review team will use this self-assessment information during their review of the district.

(10) During the review, OPPAGA and the consultant conducting the review, if any, shall hold at least one advertised public forum as part of the review in order to explain the best financial management practices review process and obtain input from students, parents, the business community, and other district residents regarding their concerns about the operations and management of the school district.

(11)(3) District reviews conducted under this section must be completed within 6 months after commencement. OPPAGA shall issue a final report to the President of the Senate, the Speaker of the House of Representatives, and the district regarding the district's use of best its financial management practices and cost savings recommendations within 60 days after completing the reviews. Copies of the final report shall be provided to the Governor, the Commissioner of Education, and to the chairs of school advisory councils and district advisory councils established pursuant to s. 229.58(1)(a) and (b). The school district shall notify all members of the school advisory councils and district advisory council by mail that the final report has been delivered to the school district and to the council chairs. The notification shall also inform members of the OPPAGA web site address at which an electronic copy of the report is available.

(12) After receipt of the final report and before the school board votes whether to adopt the action plan, or if no action plan was required because the district was found to be using the best practices, the school district shall hold an advertised public forum to accept public input and review the findings and recommendations of the report. The district shall advertise and promote this forum in a manner appropriate to inform school and district advisory councils, parents, school district employees, the business community, and other district residents of the opportunity to attend this meeting. OPPAGA and the consultant, if any, shall also be represented at this forum.

(13)(a) If the district is found not to conform to best financial management practices, the report must contain ~~an~~ a plan of action plan detailing how the district could meet the best practices within 2 years. The school board must decide, by a majority plus one vote within 90 days after receipt of the final report, whether or not to implement the action plan and pursue a "Seal of Best Financial Management" awarded by the State Board of Education to qualified school districts. If a district fails to vote on the action plan within 90 days, school board members may be required to appear and present testimony before a legislative committee, pursuant to s. 11.143.

(b) The school board may vote to reverse a decision not to implement an action plan, provided that the action plan is implemented and there is still sufficient time, as determined by the district school board, to meet the best practices within 2 years after issuance of the final report.

(c) Within 90 days after the receipt of the final report, the school board must notify OPPAGA and the Commissioner of Education in writing of the date and outcome of the school board vote on whether to adopt the action plan. If the school board fails to vote on whether to adopt the action plan, the superintendent must notify OPPAGA and the Commissioner of Education. The Department of Education may contact the school district, assess the situation, urge the school board to vote, and offer technical assistance, if needed.

(14)(4) If a school board votes to implement the action plan:

(a) No later than 1 year after receipt of the final report, the school district ~~must~~ District school boards that agree by a majority plus one vote to institute the action plan shall submit an initial status annual report to the President of the Senate, the Speaker of the House of Representatives Legislature, the Governor, ~~the SMART Schools Clearinghouse,~~ OPPAGA, the Auditor General, the State Board of Education, and the Commissioner of Education on progress made towards implementing the action plan and whether changes have occurred in other areas of operation that ~~which~~ would affect compliance with the best practices.

(b) A second status report must be submitted by the school district to the President of the Senate, the Speaker of the House of Representatives, the Governor, OPPAGA, the Auditor General, the Commissioner of Education, and the State Board of Education no later than 1 year after submission of the initial report.

~~Status reports are not required once OPPAGA concludes that the district is using best practices. Such districts shall be reviewed annually by OPPAGA, in addition to the annual financial audit required under s. 11.45, to determine whether they have attained compliance with the best financial management practices in the areas covered by the plan.~~

(15) After receipt of each of a district's two status reports required by subsection (14), OPPAGA shall assess the district's implementation of the action plan and progress toward implementing the best financial management practices in areas covered by the plan. Following each assessment, OPPAGA shall issue a report to the President of the Senate, the Speaker of the House of Representatives, and the district indicating whether the district has successfully implemented the best financial management practices. Copies of the report must be provided to the Governor, the Auditor General, the Commissioner of Education, and the State Board of Education. If a district has failed to implement an action plan adopted pursuant to subsection (13), school board members and the school superintendent may be required to appear before a legislative committee, pursuant to s. 11.143, to present testimony regarding the district's failure to implement such action plan.

(16) School districts that successfully implement the best financial management practices within 2 years, or are determined in the review to be using the best practices, are eligible to receive a "Seal of Best Financial Management." Upon notification to the Commissioner of Education and the State Board of Education by OPPAGA that a district has been districts that are found to be using comply with the best financial management practices, the State Board of Education shall award that district shall receive a "Seal of Best Financial Management" by the State Board of Education certifying that the district is adhering to the state's best financial management practices. The State Board of Education This designation shall be effective for 5 years from the certification date or until the next review is completed, whichever is later a 5-year period, after which the district school board may reapply for the designation to be granted after another financial management practice review. During the designation period, the district school board shall annually, not later than the anniversary date of the certification, notify the SMART Schools Clearinghouse, OPPAGA, the Auditor General, the Commissioner of Education, and the State Board of Education of any changes in policies or operations or any other situations that would not conform to the state's best financial management practices. The State Board of Education may revoke the designation of a district at any time if it determines that a district is no longer complying with the state's best financial management practices. If no such changes have occurred and the school board determines that the school district continues to conform to the best financial management practices, the school board shall annually report that information to the State Board of Education, with copies to OPPAGA, the Auditor General, and the Commissioner of Education.

(17)(a) The school board of a district that has been awarded a "Seal of Best Financial Management" by the State Board of Education and has annually reported to the State Board of Education that the district is still conforming to the best financial management practices may request a

waiver from undergoing its next scheduled Best Financial Management Practices review.

(b) To apply for such waiver, not later than September 1 of the fiscal year prior to the fiscal year in which the district is next scheduled for review, the school board shall certify to OPPAGA and the Department of Education the school board's determination that the school district is still conforming to the best financial management practices.

(c) After consultation with the Department of Education and review of the school board's determination, OPPAGA may recommend to the Legislative Budget Commission that the district be granted a waiver for the next scheduled Best Financial Management Practices review. If approved for waiver, OPPAGA shall notify the school district and the Department of Education that no review of that district will be conducted during the next scheduled review cycle. In that event, the school district must continue annual reporting to the State Board of Education as required in subsection (16). Districts granted a waiver for one review cycle are not eligible for waiver of the next scheduled review cycle.

(18) School districts that receive a best financial management practices review must maintain records that will enable independent verification of the implementation of the action plan and any related fiscal impacts.

(19) Unrestricted cost savings resulting from implementation of the best financial management practices must be spent at the school and classroom levels for teacher salaries, teacher training, improved classroom facilities, student supplies, textbooks, classroom technology, and other direct student instruction activities. Cost savings identified for a program that has restrictive expenditure requirements shall be used for the enhancement of the specific program.

~~(5) Any audit or performance review of one or more of the designated components conducted or supervised by OPPAGA or the Department of Management Services, and completed within 2 years before the date of application to OPPAGA for a best financial practices review, may serve as all or part of the audit or review required as the examination of district operations necessary for a determination of whether a district meets the "best financial management practices" designation. The cost contribution requirements of subsection (2) do not apply to any such audit or performance review.~~

Section 3. Section 11.515, Florida Statutes, is repealed.

Section 4. Section 230.2302, Florida Statutes, is repealed.

Section 5. Section 230.23026, Florida Statutes, is repealed.

Section 6. Subsection (1) of section 11.51, Florida Statutes, is amended to read:

11.51 Office of Program Policy Analysis and Government Accountability.—

(1) There is hereby created the Office of Program Policy Analysis and Government Accountability as a unit of the Office of the Auditor General appointed pursuant to s. 11.42. The Such office shall perform independent examinations, program reviews, and other projects as provided by general law, as provided by concurrent resolution, or as directed by the Legislative Auditing Committee, and shall provide recommendations, training, or other services to assist the Legislature program evaluation and justification reviews as required by s. 11.513 and performance audits as defined in s. 11.45 and shall contract for performance reviews of school districts pursuant to ss. 11.515 and 230.2302.

Section 7. Subsection (4) of section 230.23027, Florida Statutes, is amended to read:

230.23027 Small School District Stabilization Program.—

(4) Effective July 1, 2000, and thereafter, when the Office of Tourism, Trade, and Economic Development authorizes a school district to participate in the program, the Legislature may give priority to that district for a best financial management practices review in the school district, subject to approval pursuant to s. 230.23025(7) as authorized in s. 11.515, to the extent that funding is provided annually for such purpose in the General Appropriations Act. The scope of the review shall be as set forth in s. 230.23025 s. 11.515.

Section 8. Subsection (1) of section 233.43, Florida Statutes, is amended to read:

233.43 Duties of superintendent relating to instructional materials.—

(1) The duties and responsibilities of each superintendent of schools for the requisition, purchase, receipt, storage, distribution, use, conservation, records, and reports of, and management practices and property accountability concerning, instructional materials shall be prescribed by policies of the district school board. Such policies shall also provide for an evaluation of any instructional materials to be requisitioned that have not been used previously in the schools of the district. The duties and responsibilities include keeping adequate records and accounts for all financial transactions for funds collected pursuant to s. 233.46(4). Such records and accounts shall be a component of the educational service delivery scope in a school district best financial management practices review under s. ss. 11.515 and 230.23025.

Section 9. Paragraph (a) of subsection (2) of section 235.2197, Florida Statutes, is amended to read:

235.2197 Florida Frugal Schools Program.—

(2) The “Florida Frugal Schools Program” is created to recognize publicly each district school board that agrees to build frugal yet functional educational facilities and that implements “best financial management practices” when planning, constructing, and operating educational facilities. The State Board of Education shall recognize a district school board as having a Flor-

ida Frugal Schools Program if the district requests recognition and satisfies two or more of the following criteria:

(a) The district receives a “Seal of Best Financial Management” as provided in s. 230.23025 or implements best financial management practices applicable to in the area of educational facilities as evidenced by a partial review under s. 230.23025 s. 230.2302.

Section 10. Land Acquisition and Facilities Advisory Board.—

(1) The Legislature recognizes that effective land acquisition and facilities operations are essential components of Florida district school boards’ ability to provide facilities to accommodate the growing student population in the state. To support and assist the school districts, it is appropriate for the Legislature to make advisory resources available to aid districts in meeting those needs.

(2) If the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA) or the Auditor General determines in a review or examination that significant deficiencies exist in a school district’s land acquisition and facilities operational processes, he or she shall certify to the President of Senate, the Speaker of the House of Representatives, the Legislative Budget Commission, and the Governor that the deficiency exists. The Legislative Budget Commission shall determine whether funds for the school district will be placed in reserve until the deficiencies are corrected.

(3) After receipt of that certification, the President of the Senate, the Speaker of the House of Representatives, and the Governor shall name a Land Acquisition and Facilities Advisory Board to provide expert advice and assist in improving the district’s land acquisition and facilities operational processes. Each Land Acquisition and Facilities Advisory Board shall consist of seven members and shall possess specific expertise needed to assist the school district in improving its deficient processes. The President of the Senate and the Speaker of the House shall each appoint two members, and the Governor shall appoint three members of the advisory board. Membership of each advisory board may be different for each district. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in accordance with section 112.061, Florida Statutes.

(4) Within 30 days of its formation, the Land Acquisition and Facilities Advisory Board shall convene in the district and make all reasonable efforts to help the district correct deficiencies noted in the examination or audit of the district. The district must cooperate with the advisory board and provide information as requested.

(5) Within 60 days of convening, the Land Acquisition and Facilities Advisory Board shall assess the district’s progress and corrective actions and report to the Commissioner of Education. The advisory board’s report must address the release of any funds placed in reserve by the Executive Office of the Governor. Any recommendation from the advisory board for the release of funds shall include a certification that policies established, procedures followed, and expenditures made by the school board related to site

acquisition and facilities planning and construction are consistent with recommendations of the Land Acquisition and Facilities Advisory Board and will accomplish corrective action and address recommendations made by the Office of Program Policy Analysis and Government Accountability and the Auditor General. If the advisory board does not recommend release of the funds held in reserve they shall provide additional assistance and submit a subsequent report 60 days after the previous report.

(6) Upon certification by the advisory board that corrective action has been taken, each Land Acquisition and Facilities Advisory Board shall be disbanded.

Section 11. Paragraph (b) of subsection (22) of section 159.27, Florida Statutes, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(22) “Educational facility” means:

(b) Property that comprises the buildings and equipment, structures, and special education use areas that are built, installed, or established to serve primarily the educational purposes of operating any nonprofit private preschool, kindergarten, elementary school, middle school, or high school that is established under chapter 617 or chapter 623, or that is owned or operated by an organization described in s. 501(c)(3) of the United States Internal Revenue Code, or operating any preschool, kindergarten, elementary school, middle school, or high school that is owned or operated as part of the state’s system of public education, including, but not limited to, a charter school or a developmental research school operated under chapter 228. The requirements of this part for the financing of projects through local agencies shall also apply to such schools. Bonds issued under the provisions of this part for such schools shall not be deemed to constitute a debt, liability, or obligation of the state or any political subdivision thereof, or a pledge of the faith and credit of the state or of any such political subdivision, but shall be payable solely from the revenues provided therefor.

Section 12. Section 228.056, Florida Statutes, is amended to read:

228.056 Charter schools.—

(1) AUTHORIZATION.—The creation of charter schools is hereby authorized. Charter schools shall be part of the state’s program of public education. All charter schools in Florida are fully recognized as public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. A public school may not use the term charter in its name unless it has been approved under this section.

(2) PURPOSE.—The purpose of charter schools shall be to:

(a) Improve student learning.

(b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.

- (c) Encourage the use of different and innovative learning methods.
 - (d) Increase choice of learning opportunities for students.
 - (e) Establish a new form of accountability for schools.
 - (f) Require the measurement of learning outcomes and create innovative measurement tools.
 - (g) Make the school the unit for improvement.
 - (h) Create new professional opportunities for teachers, including the opportunity to own the learning program at the school site.
 - (i) Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.
 - (j) Provide additional academic choices for parents and students.
 - (k) Expand the capacity of the public school system.
- (3) APPLICATION; UNLAWFUL REPRISAL.—

(a)1. An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.

2. The district school board or the principal, teachers, parents, and/or the school advisory council at an existing public school that has been in operation for at least 2 years prior to the application to convert, including a public school-within-a-school that is designated as a school by the district school board, shall submit any application for converting the school to a charter school. An application submitted proposing to convert an existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process, according to procedures established by rules of the state board. A district school board denying an application for a conversion charter school shall provide notice of denial to the applicants in writing within 30 days after the meeting at which the school board denied the application. The notice must specify the exact reasons for denial and must provide documentation supporting those reasons. A private school, parochial school, or home education program shall not be eligible for charter school status.

(b) No district school board, or district school board employee who has control over personnel actions, shall take unlawful reprisal against another district school board employee because that employee is either directly or indirectly involved with an application to establish a charter school. As used in this subsection, the term “unlawful reprisal” means an action taken by a district school board or a school system employee against an employee who is directly or indirectly involved in a lawful application to establish a charter school, which occurs as a direct result of that involvement, and which results in one or more of the following: disciplinary or corrective action; adverse

transfer or reassignment, whether temporary or permanent; suspension, demotion, or dismissal; an unfavorable performance evaluation; a reduction in pay, benefits, or rewards; elimination of the employee's position absent a reduction in force as a result of lack of moneys or work; or other adverse significant changes in duties or responsibilities that are inconsistent with the employee's salary or employment classification. The following procedures shall apply to an alleged unlawful reprisal which occurs as a consequence of an employee's direct or indirect involvement with an application to establish a charter school:

1. Within 60 days after a reprisal prohibited by this subsection, an employee may file a complaint with the Department of Education.

2. Within 3 working days after receiving a complaint under this section, the department shall acknowledge receipt of the complaint and provide copies of the complaint and any other relevant preliminary information available to each of the other parties named in the complaint, which parties shall each acknowledge receipt of such copies to the complainant.

3. If the department determines that the complaint demonstrates reasonable cause to suspect that an unlawful reprisal has occurred, the department shall conduct an investigation to produce a fact-finding report.

4. Within 90 days after receiving the complaint, the department shall provide the superintendent of schools of the complainant's district and the complainant with a fact-finding report that may include recommendations to the parties or proposed resolution of the complaint. The fact-finding report shall be presumed admissible in any subsequent or related administrative or judicial review.

5. If the department determines that reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, and is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the department shall terminate the investigation. Upon termination of any investigation, the department shall notify the complainant and the superintendent of schools of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding.

6. The department shall either contract with the Division of Administrative Hearings under s. 120.65, or otherwise provide for a complaint for which the department determines reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, and is unable to conciliate, to be heard by a panel of impartial persons. Upon hearing the complaint, the panel must make findings of fact and conclusions of law for a final decision by the department.

It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's exercise of rights protected by this section.

(c) In any action brought under this section for which it is determined reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, the relief must include the following:

1. Reinstatement of the employee to the same position held before the unlawful reprisal was commenced, or to an equivalent position, or payment of reasonable front pay as alternative relief.

2. Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate.

3. Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the unlawful reprisal.

4. Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.

5. Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

6. Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome on the complaint, if it is determined that the action was not made in bad faith or for a wrongful purpose, and did not occur after a district school board's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency.

(4) SPONSOR.—A district school board may sponsor a charter school in the county over which the board has jurisdiction.

(a) A district school board shall receive and review all applications for a charter school. A district school board shall receive and consider charter school applications received on or before October 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the district school board. A district school board may receive applications later than this date if it chooses. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of an application upon the promise of future payment of any kind.

1. In order to facilitate an accurate budget projection process, a district school board shall be held harmless for FTE students which are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a district school board or other sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.

2. A district school board must by a majority vote approve or deny an application no later than 60 calendar days after the application is received,

unless the district school board and the applicant mutually agree to temporarily postpone the vote to a specific date, at which time the district school board must by a majority vote approve or deny the application. If the district school board fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (b). If an application is denied, the district school board must, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the charter application.

3. For budget projection purposes, the district school board or other sponsor shall report to the department the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the department must include the final projected FTE for the approved charter school.

4. Upon approval of a charter application, the initial startup must commence ~~be consistent~~ with the beginning of the public school calendar for the district in which the charter is granted unless the district school board allows a waiver of this provision for good cause.

(b) An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the district school board's decision or failure to act and shall notify the district school board of its appeal. Any response of the school board shall be submitted to the state board within 30 calendar days after notification of the appeal. The state board must by majority vote accept or reject the decision of the district school board no later than 60 calendar days after an appeal is filed in accordance with state board rule. The state board may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant may have up to 15 calendar days from notice of rejection to resubmit an appeal that meets requirements of rule. An application for appeal submitted subsequent to such rejection shall be considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the school board's denial of the charter application ~~the school board denial~~. The state board shall remand the application to the district school board with its written recommendation that the district board approve or deny the application consistent with the state board's decision. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

(c) The district school board must act upon the recommendation of the State Board of Education within 30 calendar days after it is received. The district board may fail to act in accordance with the recommendation of the state board only for good cause. Good cause for failing to act in accordance with the state board's recommendation arises only if the district school board determines by competent substantial evidence that approving the state board's recommendation would be contrary to law or contrary to the best interests of the pupils or the community. The district school board must articulate in written findings the specific reasons based upon good cause supporting its failure to act in accordance with the state board's recommen-

ation. The district board's action on the state board's recommendation is a final action subject to judicial review.

(d) The Department of Education may provide technical assistance to an applicant upon written request.

(e) Paragraph (a) notwithstanding, a state university may grant a charter to a developmental research school created under s. 228.053. In considering such charter, the state university must consult with the district school board of the county in which the developmental research school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(f) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor shall not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The applicant and sponsor shall have 6 months in which to mutually agree to the provisions of the charter. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge may rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against.

(g) The sponsor shall monitor and review the charter school in its progress towards the goals established in the charter.

(h) The sponsor shall monitor the revenues and expenditures of the charter school.

(i) A charter school shall be exempt from the sponsor's policies.

(5) CHARTER SCHOOL COOPERATIVES.—Charter schools may enter into cooperative agreements to form charter school cooperative organizations that may provide the following services: charter school planning and development, direct instructional services, contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.

(6)(5) NUMBER OF SCHOOLS.—

(a) The number of newly created charter schools is limited to no more than 28 in each school district that has 100,000 or more students, no more

than 20 in each school district that has 50,000 to 99,999 students, and no more than 12 in each school district with fewer than 50,000 students.

(b) An existing public school which converts to a charter school shall not be counted towards the limit established by paragraph (a).

Notwithstanding any limit established by this subsection, a district school board or a charter school applicant shall have the right to request an increase of the limit on the number of charter schools authorized to be established within the district from the State Board of Education.

~~(7)~~(6) ELIGIBLE STUDENTS.—

(a) A charter school shall be open to any student covered in an interdistrict agreement or residing in the school district in which the charter school is located; however, in the case of a developmental research school created under s. 228.053 to which a charter has been issued under paragraph (4)(e), the charter school shall be open to any student eligible to attend the developmental research school as provided in s. 228.053 or who resides in the school district in which the charter school is located. Any eligible student shall be allowed interdistrict transfer to attend a charter school when based on good cause. When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school. A charter school may give enrollment preference to a sibling of a student enrolled in the charter school, to the child of a member of the governing board of the charter school, or to the child of an employee of the charter school.

(b) The charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants shall have an equal chance of being admitted through a random selection process.

(c) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.
2. Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.
3. Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality established pursuant to subsection (22).
4. Students residing within a reasonable distance of the charter school, as described in paragraph (13)(c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (9)(a)8. or any federal provisions which require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.
5. Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school and included in the charter

school application and charter or, in the case of existing charter schools, standards that are consistent with the school's mission and purpose. Such standards must be in accordance with current state law and practice in public schools and may not discriminate against otherwise qualified individuals.

6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools which has been approved by the sponsor.

(d) A student may withdraw from a charter school at any time and enroll in another public school as determined by school board policy.

(e) Students with handicapping conditions and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.

(f) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection.

(8)(7) LEGAL ENTITY.—A charter school shall organize as, or be operated by, a nonprofit organization. A charter school may be operated by a municipality or other public entity as provided for by law. As such, the charter school may be either a private or a public employer. As a public employer, a charter school may participate in the Florida Retirement System upon application and approval as a “covered group” under s. 121.021(34). If a charter school participates in the Florida Retirement System, the charter school employees shall be compulsory members of the Florida Retirement System. As either a private or a public employer, a charter school may contract for services with an individual or group of individuals who are organized as a partnership or a cooperative. Individuals or groups of individuals who contract their services to the charter school are not public employees.

(9)(8) REQUIREMENTS.—

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) A charter school shall admit students as provided in subsection (6).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (9).

(d) A charter school shall not charge tuition or fees, except those fees normally charged by other public schools. However, a developmental research school to which a charter has been issued pursuant to paragraph (4)(e) may charge a student activity and service fee as authorized by s. 228.053(5).

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(f) A charter school shall not violate the antidiscrimination provisions of s. 228.2001.

(g) A charter school shall be subject to an annual financial audit in a manner similar to that of a school district.

(h) No organization shall hold more than 15 charters statewide.

(i) In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records which constitute their accounting system:

1. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools"; or,

2. At the discretion of the charter school governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

Charter schools are to provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 236.02(1). Charter schools which are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent, but must reformat this information for reporting according to this paragraph.

(j) The governing board of the charter school shall annually adopt and maintain an operating budget.

(10)(9) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address, and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, and any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance. This must include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. This section shall include a detailed description for each of the following:

- a. How the baseline student academic achievement levels and prior rates of academic progress will be established.
- b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.
- c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.
- d. The district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.
4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. Included in the methods is a means for ensuring accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program.
5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 232.246.
6. A method for resolving conflicts between the governing body of the charter school and the sponsor.
7. The admissions procedures and dismissal procedures, including the school's code of student conduct.
8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.
9. The financial and administrative management of the school, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services and the description of clearly delineated responsibilities and the policies and practices needed to effectively manage the charter school. A description of internal audit procedures and establishment of controls to ensure that financial resources are properly managed must be included. Both public sector and private sector professional experience shall be equally valid in such a consideration.
10. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

11. The term of the charter which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for 3, 4, or 5 years. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the local school board. A developmental research school is eligible for a charter for a term of up to 15 years issued by a state university pursuant to paragraph (4)(e). In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 10-year charter, subject to approval by the local school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only for specific good cause according to the provisions set forth in subsection (10).

12. The facilities to be used and their location.

13. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

14. The governance structure of the school, including the status of the charter school as a public or private employer as required in subsection (7).

15. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

16. In the case of an existing public school being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or school board policy in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current teachers who choose not to teach in a developmental research school to which a charter has been issued pursuant to paragraph (4)(e), except as authorized by the employment policies of the state university which grants the charter to the developmental research school.

(b) A charter may be renewed every 5 school years, provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (10)(a) have been documented. In order to facilitate long-term financing for charter school construction, charter schools operating for a minimum of 2 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school governing board and the approval of both parties to the agreement.

(d) The governing body of the charter school shall exercise continuing oversight over charter school operations and make annual progress reports to its sponsor, which upon verification shall be forwarded to the Commissioner of Education at the same time as other annual school accountability reports. The report shall contain at least the following information:

1. The charter school's progress towards achieving the goals outlined in its charter.
2. The information required in the annual school report pursuant to s. 229.592.
3. Financial records of the charter school, including revenues and expenditures.
4. Salary and benefit levels of charter school employees.

(e) A sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 229.591.

(f) Upon receipt of the annual report required by paragraph (d), the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the state assessment program, versus comparable public school students in the district as determined by the state assessment program currently administered in the school district, and, as appropriate, the Florida Writes Assessment Test, the High School Competency Test, and other assessments administered pursuant to s. 229.57(3).

(g) Whenever a municipality has submitted charter applications for the establishment of a charter school feeder pattern (elementary, middle, and senior high schools), and upon approval of each individual charter application by the district school board, such applications will then be designated as one charter for all purposes listed pursuant to this section.

(11)(40) CAUSES FOR NONRENEWAL OR TERMINATION.—

(a) At the end of the term of a charter, the sponsor may choose not to renew the charter for any of the following grounds:

1. Failure to meet the requirements for student performance stated in the charter.
2. Failure to meet generally accepted standards of fiscal management.
3. Violation of law.
4. Other good cause shown.

(b) During the term of a charter, the sponsor may terminate the charter for any of the grounds listed in paragraph (a).

(c) At least 90 days prior to renewing or terminating a charter, the sponsor shall notify the governing body of the school of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and stipulate that the school's governing body may, within 14 calendar days after receiving the notice, request an informal hearing before the sponsor. The sponsor shall conduct the informal hearing within 30 calendar days after receiving a written request. The charter school's governing body may, within 14 calendar days after receiving the sponsor's decision to terminate or refuse to renew the charter, appeal the decision pursuant to the procedure established in subsection (4).

(d) A charter may be terminated immediately if the sponsor determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. The school district in which the charter school is located shall assume operation of the school under these circumstances. The charter school's governing board may, within 14 days after receiving the sponsor's decision to terminate the charter, appeal the decision pursuant to the procedure established in subsection (4).

(e) When a charter is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered public funds from the charter school shall revert to the district school board. In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances.

(f) If a charter is not renewed or is terminated, the ~~charter school governing body of the school~~ charter school governing body of the school is responsible for all debts of the charter school. The district may not assume the debt from any contract for services made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the district and the governing body of the school and that may not reasonably be assumed to have been satisfied by the district.

(g) If a charter is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in, another public school. Normal application deadlines shall be disregarded under such circumstances.

(12)(44) EXEMPTION FROM STATUTES.—A charter school shall operate in accordance with its charter and shall be exempt from all statutes of the Florida School Code, except those specifically applying to charter schools; those pertaining to the provision of services to students with disabilities; those pertaining to civil rights, including s. 228.2001, relating to discrimination; and those pertaining to student health, safety, and welfare; or as otherwise required by this section. A charter school shall not be exempt from the following statutes: chapter 119, relating to public records, and s. 286.011, relating to public meetings and records, public inspection, and

penalties. ~~The charter school's governing board sponsor, upon request of a charter school,~~ may apply to the Commissioner of Education for a waiver of provisions of chapters 230-239 which are applicable to charter schools under this section, except that the provisions of chapter 236 or chapter 237 shall not be eligible for waiver if the waiver would affect funding allocations or create inequity in public school funding. The Commissioner of Education must confirm receipt of a waiver request from a charter school by providing a copy of the request to the sponsor. The commissioner may grant the waiver if necessary to implement the school program and shall provide notice of the final dispensation of the waiver request to the charter school governing board and the charter school's sponsor.

(13)(42) EMPLOYEES OF CHARTER SCHOOLS.—

(a) A charter school shall select its own employees. A charter school may contract with its sponsor for the services of personnel employed by the sponsor.

(b) Charter school employees shall have the option to bargain collectively. Employees may collectively bargain as a separate unit or as part of the existing district collective bargaining unit as determined by the structure of the charter school.

(c) The employees of a conversion charter school shall remain public employees for all purposes, unless such employees choose not to do so.

(d) The teachers at a charter school may choose to be part of a professional group that subcontracts with the charter school to operate the instructional program under the auspices of a partnership or cooperative that they collectively own. Under this arrangement, the teachers would not be public employees.

(e) Employees of a school district may take leave to accept employment in a charter school upon the approval of the district school board. While employed by the charter school and on leave that is approved by the school board, the employee may retain seniority accrued in that school district and may continue to be covered by the benefit programs of that school district, if the charter school and the district school board agree to this arrangement and its financing. School districts shall not require resignations of teachers desiring to teach in a charter school. This paragraph shall not prohibit a school board from approving alternative leave arrangements consistent with chapter 231.

(f) Teachers employed by or under contract to a charter school shall be certified as required by chapter 231. A charter school governing board may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as education paraprofessionals in the same manner as defined in chapter 231, and as provided by State Board of Education rule for charter school governing boards. A charter school may not knowingly employ an individual to provide instructional services or to serve as an education paraprofessional if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. A charter school may not knowingly employ an

individual who has resigned from a school district in lieu of disciplinary action with respect to child welfare or safety, or who has been dismissed for just cause by any school district with respect to child welfare or safety. The qualifications of teachers shall be disclosed to parents.

(g) A charter school shall employ or contract with employees who have been fingerprinted as provided in s. 231.02. Members of the governing board of the charter school shall also be fingerprinted in a manner similar to that provided in s. 231.02.

~~(14)~~(13) REVENUE.—Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a chartered developmental research school shall be as provided in s. 228.053(9).

(a) Each charter school shall report its student enrollment to the district school board as required in s. 236.081, and in accordance with the definitions in s. 236.013. The district school board shall include each charter school's enrollment in the district's report of student enrollment. All charter schools submitting student record information required by the Department of Education shall comply with the department's guidelines for electronic data formats for such data, and all districts shall accept electronic data that complies with the department's electronic format.

(b) The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 236.081 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law shall be entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation. Total funding for each charter school will be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education.

(c) Transportation of charter school students shall be provided by the charter school consistent with the requirements of chapter 234. The governing body of the charter school may provide transportation through an agreement or contract with the district school board, a private provider, or parents. The charter school and the sponsor shall cooperate in making arrangements that ensure that transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter.

(d) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter

schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months after the charter school first opens and within 5 months after any subsequent expansion of enrollment.

(e) Any administrative fee charged by the school district relating to a charter school shall be limited to 5 percent of the available funds as defined in paragraph (b) not including capital outlay funds, federal and state grants, or any other funds unless explicitly provided by law. The sponsor shall provide certain administrative and educational services to charter schools at no additional fee. These services shall include contract management services, FTE and data reporting, exceptional student education administration, test administration, processing of teacher certificate data, and information services.

(f) School boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement, including processing paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a charter school for up to 3 months based on the projected full-time equivalent student membership of the charter school. Thereafter, the results of full-time equivalent student membership surveys must be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds. If a warrant for payment is not issued within 30 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 30-day period until such time as the warrant is issued.

(g) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter organizers shall agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards. The Public Education Capital Outlay maintenance funds or any other maintenance funds generated by the facility operated as a conversion school shall remain with the conversion school.

(h) If other goods and services are made available to the charter school through the contract with the school district, they shall be provided to the

charter school at a rate no greater than the district's actual cost. To maximize the use of state funds, school districts shall allow charter schools to participate in the sponsor's bulk purchasing program if applicable.

~~(15)~~⁽¹⁴⁾ IMMUNITY.—For the purposes of tort liability, the governing body and employees of a charter school shall be governed by s. 768.28.

~~(16)~~⁽¹⁵⁾ LENGTH OF SCHOOL YEAR.—A charter school shall provide instruction for at least the number of days required by law for other public schools, and may provide instruction for additional days.

~~(17)~~⁽¹⁶⁾ FACILITIES.—

(a) A charter school shall utilize facilities which comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 235.26 or with applicable state minimum building codes pursuant to chapter 553 and state minimum fire protection codes pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located.

(b) Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board, pursuant to subsection (9), shall be exempt from ad valorem taxes pursuant to s. 196.1983.

(c) After January 1, 2001, charter school facilities shall utilize facilities which comply with the Florida Building Code, pursuant to chapter 553, and the Florida Fire Prevention Code, pursuant to chapter 633.

~~(18)~~⁽¹⁷⁾ INITIAL COSTS.—A sponsor may approve a charter for a charter school before the applicant has secured space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working capital.

~~(19)~~⁽¹⁸⁾ INFORMATION.—The Department of Education shall provide information to the public, directly and through sponsors, both on how to form and operate a charter school and on how to enroll in charter schools once they are created. This information shall include a standard application format which shall include the information specified in subsection (9). This application format may be used by chartering entities.

~~(20)~~⁽¹⁹⁾ GENERAL AUTHORITY.—A charter school shall not levy taxes or issue bonds secured by tax revenues.

~~(21)~~⁽²⁰⁾ REVIEW.—

(a) The Department of Education shall regularly convene a Charter School Review Panel in order to review issues, practices, and policies regarding charter schools. The composition of the review panel shall include individuals with experience in finance, administration, law, education, and school governance, and individuals familiar with charter school construction and operation. The panel shall include two appointees each from the Commissioner of Education, the President of the Senate, and the Speaker of the

House of Representatives. The Governor shall appoint three members of the panel and shall designate the chair. Each member of the panel shall serve a 1-year term, unless renewed by the office making the appointment. The panel shall make recommendations to the Legislature, to the Department of Education, to charter schools, and to school districts for improving charter school operations and oversight and for ensuring best business practices at and fair business relationships with charter schools.

(b) The Legislature shall review the operation of charter schools during the 2005 Regular Session of the Legislature.

(22)(24) RULEMAKING.—The Department of Education, after consultation with school districts and charter school directors, shall recommend that the State Board of Education adopt rules to implement specific subsections of this section. Such rules shall require minimum paperwork and shall not limit charter school flexibility authorized by statute.

~~(23)(22) CHARTER SCHOOLS-IN-THE-WORKPLACE, CHARTER SCHOOLS-IN-A-DEVELOPMENT, AND CHARTER SCHOOLS IN-A-MUNICIPALITY.—~~

(a) In order to increase business partnerships in education, to reduce school and classroom overcrowding throughout the state, to encourage developers of residential and other projects to provide school infrastructure concurrent with school impacts, to promote and encourage local communities to participate in and advance the cause of neighborhood schools, and to offset the high costs for educational facilities construction, the Legislature intends to encourage the formation of business partnership schools or satellite learning centers through charter school status.

(b) A charter school-in-the-workplace may be established when a business partner provides the school facility to be used; enrolls students based upon a random lottery which involves all of the children of employees of that business or corporation who are seeking enrollment, as provided for in subsection (6); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (9)(a)8. Any portion of a facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 235.198, for the duration of its use as a public school.

(c) A charter school-in-a-municipality designation may be granted to a municipality that possesses a charter; enrolls students based upon a random lottery that involves all of the children of the residents of that municipality who are seeking enrollment, as provided for in subsection (6); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (9)(a)8. Any portion of the land and facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 235.198, for the duration of its use as a public school.

(d) As used in this subsection, the terms “business partner,” “employer,” “developer,” or “municipality” may include more than one business, employer, developer, or municipality to form a charter school-in-the-workplace, charter school-in-a-development, or charter school-in-a-municipality.

Section 13. Subsection (1) of section 228.0561, Florida Statutes, is amended to read:

228.0561 Charter schools capital outlay funding.—

(1) In each year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education shall allocate the funds among eligible charter schools. To be eligible for a funding allocation, a charter school must meet the provisions of subsection (6), must have received final approval from its sponsor pursuant to s. 228.056 for operation during that fiscal year, and must serve students in facilities that are not provided by the charter school's sponsor. Prior to the release of capital outlay funds to a school district on behalf of the charter school, the Department of Education shall ensure that the district school board and the charter school governing board enter into a written agreement that includes provisions for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the district school board, as provided for in subsection (3), in the event that the school terminates operations. Any funds recovered by the state shall be deposited in the General Revenue Fund. A charter school is not eligible for a funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee or at no charge or if it is directly or indirectly operated by the school district. Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school shall be determined by multiplying the school's projected student enrollment by one-fifteenth of the cost-per-student station specified in s. 235.435(6)(b) for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. Funds shall be distributed on the basis of the capital outlay full-time equivalent membership by grade level, which shall be calculated by averaging the results of the second and third enrollment surveys. The Department of Education shall distribute capital outlay funds monthly, beginning in the first quarter of the fiscal year, based on one-twelfth of the amount the department reasonably expects the charter school to receive during that fiscal year. The commissioner shall adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment as reflected in the second and third enrollment surveys. Sixty percent of the funds shall be distributed after the second enrollment survey, and the balance shall be distributed after the third enrollment survey. The commissioner shall adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment. The commissioner shall establish the intervals and procedures for determining the projected and actual student enrollment of eligible charter schools.

Section 14. Paragraph (d) is added to subsection (3) of section 232.425, Florida Statutes, to read:

232.425 Student standards for participation in interscholastic extracurricular student activities; regulation.—

(3)

(d) An individual charter school student pursuant to s. 228.056 is eligible to participate at the public school to which the student would be assigned according to district school attendance area policies or which the student could choose to attend, pursuant to district or interdistrict controlled open-enrollment provisions, in any interscholastic extracurricular activity of that school, unless such activity is provided by the student's charter school, if the following conditions are met:

1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.

2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).

3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.

4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before the beginning date of the season for the activity in which he or she wishes to participate. A charter school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or nonpublic school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school pursuant to subparagraph 2. to become eligible to participate as a charter school student.

Section 15. This act shall take effect July 1, 2001.

Approved by the Governor May 30, 2001.

Filed in Office Secretary of State May 30, 2001.