

CHAPTER 2013-250

Committee Substitute for Committee Substitute for House Bill No. 7009

An act relating to education; amending s. 1002.33, F.S.; clarifying enforcement of policies agreed to by the sponsor and charter school which are subsequently amended; requiring a charter school sponsor to submit an annual report that includes specified information; authorizing a charter school operated by a Florida College System institution to serve students in kindergarten through grade 12 if certain criteria are met; authorizing a school district to enter into certain interlocal agreements and authorizing charter schools to use the school district for certain related services; revising provisions relating to the timely submission of charter school applications; providing requirements relating to the appeal of a denied application submitted by a high-performing charter school; prohibiting a sponsor from requiring a charter school to have a certificate of occupancy before the first day of school or to identify the students who will be enrolled; providing for modification of a charter; requiring a sponsor to make student academic achievement for all students a priority in deciding whether to renew a charter; modifying charter school requirements for financial records; imposing rules that follow the closing of a charter school or termination of a charter; requiring a charter school to maintain a public website with certain information; providing that certain district school duties also apply to charter schools; restricting the membership of a charter school governing board; amending s. 1002.331, F.S.; modifying a limitation for increasing student enrollment; providing that the sponsor may deny a request to increase enrollment under certain circumstances; establishing timeframes for a charter school requesting that multiple charters be consolidated; requiring the Commissioner of Education to annually review a high-performing charter school's eligibility for high-performing status; authorizing declassification as a high-performing charter school; amending s. 1002.332, F.S.; revising requirements for classification as a high-performing charter school system; requiring the commissioner to annually review a high-performing charter school system's eligibility for high-performing status; authorizing declassification as a high-performing charter school system; requiring that full implementation of online assessments for Next Generation Sunshine State Standards in English/language arts and mathematics for all kindergarten through grade 12 public school students occur only after the technology infrastructure, connectivity, and capacity of all public schools and school districts have been load tested and independently verified as ready for successful deployment and implementation; requiring that the technology infrastructure, connectivity, and capacity of all public schools and school districts that administer statewide standardized assessments pursuant to s. 1008.22, F.S., be load tested and independently verified as appropriate, adequate, efficient, and sustainable; requiring the Department of Education to develop a proposed statewide, standard charter contract; amending

s. 1012.2315, F.S.; providing that a student may not be assigned to an unsatisfactory teacher, particularly in a single subject if the student is in high school or middle school, for two consecutive school years; allowing a parent to choose for his or her child to be taught by a particular teacher in an extracurricular course under certain circumstances; amending s. 1002.31, F.S.; providing a calculation for compliance with class size maximums for a public school of choice; creating s. 1002.451, F.S.; creating schools of technology to allow school districts to be innovative with industry-leading technology and earn flexibility for high academic achievement; describing permissible learning models; specifying student eligibility requirements; providing guiding principles for schools of innovation; providing guiding principles for schools of technology; specifying requirements of a performance contract between the State Board of Education and an innovation school of technology; establishing the term of the performance contract; providing for funding; exempting schools of technology from ch. 1000-1013, F.S., subject to certain exceptions; exempting such schools from certain ad valorem taxes and other requirements; specifying school district eligibility; establishing an application process; limiting the number of schools of technology that may be operated and established in a school district; providing for a Region of Technology in which three or more school districts enter into a joint performance contract; requiring the State Board of Education to monitor schools of technology for compliance with the act and performance contracts; requiring the State Board of Education to adopt rules; requiring a school district with an innovation school of technology to submit an annual report to the State Board of Education and the Legislature; specifying requirements for such report; providing an effective date.

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

Section 1. Paragraph (b) of subsection (5), paragraphs (b), (c), and (h) of subsection (6), paragraphs (a) and (c) of subsection (7), and paragraph (a) of subsection (8) of section 1002.33, Florida Statutes, are amended, to read:

1002.33 Charter schools.—

(5) SPONSOR; DUTIES.—

(b) *Sponsor duties.*—

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

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

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

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

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

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

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

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

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

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

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

(I) The report shall include the following information:

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

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

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

(D) The date each final contract was executed.

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

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

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

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

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

5. A school district may enter into nonexclusive interlocal agreements with federal and state agencies, counties, municipalities, and other governmental entities that operate within the geographical borders of the school district to act on behalf of such governmental entities in the inspection, issuance, and other necessary activities for all necessary permits, licenses, and other permissions that a charter school needs in order for development, construction, or operation. A charter school may use, but may not be required to use, a school district for these services. The interlocal agreement must include, but need not be limited to, the identification of fees that charter schools will be charged for such services. The fees must consist of the governmental entity's fees plus a fee for the school district to recover no more than actual costs for providing such services. These services and fees are not included within the services to be provided pursuant to subsection (20).

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

(b) A sponsor shall receive and review all applications for a charter school using an evaluation instrument developed by the Department of Education. A sponsor shall receive and consider charter school applications received on or before August 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 sponsor. A sponsor may not refuse to receive a charter school application submitted before August 1 and may receive an application submitted applications later than August 1 this date if it chooses. In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor shall review and provide feedback as to material deficiencies in the application by July 1. The applicant shall then have until August 1 to resubmit a revised and final application. The sponsor may approve the draft application. 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 a final an application upon the promise of future payment of any kind. Before approving or denying any final application, the sponsor shall allow the applicant, upon receipt of written notification, at least 7 calendar days to make technical or nonsubstantive corrections and clarifications, including, but not limited to, corrections of grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the final application.

1. In order to facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students who 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 sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.

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

3.a. A sponsor shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the charter application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

(I) The application does not materially comply with the requirements in paragraph (a);

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

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

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

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

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

c. If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor's denial of the application directly to the State Board of Education pursuant to sub-subparagraph (c)3.b.

4. For budget projection purposes, the sponsor shall report to the Department of Education 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 of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted unless the sponsor allows a waiver of this subparagraph for good cause.

(c)1. 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 sponsor's decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal. Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward its recommendation to the state board at least no later than 7 calendar days before prior to the date on which the appeal is to be heard. An appeal regarding the denial of an application submitted by a high-performing charter school pursuant to s. 1002.331 shall be conducted by the State Board of Education in accordance with this paragraph, except that the commission shall not convene to make recommendations regarding the appeal. However, the Commissioner of Education shall review the appeal and make a recommendation to the state board.

2. The Charter School Appeal Commission or, in the case of an appeal regarding an application submitted by a high-performing charter school, the State Board of Education 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 shall have 15 calendar days after notice of rejection in which to resubmit an appeal that meets the requirements set forth in State Board of Education rule. An appeal submitted subsequent to such rejection is considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the sponsor's denial of the charter application.

3.a. The State Board of Education shall by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

b. If an appeal concerns an application submitted by a high-performing charter school identified pursuant to s. 1002.331, the State Board of Education shall determine whether the sponsor has shown, by clear and convincing evidence, that:

(I) The application does not materially comply with the requirements in paragraph (a);

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

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

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

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

The State Board of Education shall approve or reject the sponsor's denial of an application no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the Administrative Procedure Act, chapter 120.

(h) 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 may ~~shall~~ not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The sponsor has 30 ~~shall have 60~~ days after approval of the application to provide an initial proposed charter contract to the charter school. The applicant and the sponsor have 40 ~~shall have 75~~ days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days prior to the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. 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 has final order authority to ~~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, a charter termination, or a charter nonrenewal 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.

(7) 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 board 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, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards.

a. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Next Generation Sunshine State Standards and grounded in scientifically based reading research.

b. In order to provide students with access to diverse instructional delivery models, to facilitate the integration of technology within traditional classroom instruction, and to provide students with the skills they need to compete in the 21st century economy, the Legislature encourages instructional methods for blended learning courses consisting of both traditional classroom and online instructional techniques. Charter schools may implement blended learning courses which combine traditional classroom instruction and virtual instruction. Students in a blended learning course must be full-time students of the charter school and receive the online instruction in a classroom setting at the charter school. Instructional personnel certified pursuant to s. 1012.55 who provide virtual instruction for blended learning courses may be employees of the charter school or may be under contract to provide instructional services to charter school students. At a minimum, such instructional personnel must hold an active state or school district adjunct certification under s. 1012.57 for the subject area of the blended learning course. The funding and performance accountability requirements for blended learning courses are the same as those for traditional courses.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description of:

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.

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. The methods shall provide a means for the charter school to ensure 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 created under s. 1008.22.

5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 1003.428, s. 1003.429, or s. 1003.43.

6. A method for resolving conflicts between the governing board 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. The asset and liability projections required in the application which are incorporated into the charter and shall be compared with information provided in the annual report of the charter school.

11. 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.

12. 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 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 district school board. A charter lab school is eligible for a charter for a term of up to 15 years. 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 15-year charter, subject to approval by the district school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only according to the provisions set forth in subsection (8).

13. The facilities to be used and their location. The sponsor may not require a charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility earlier than 15 calendar days before the first day of school.

14. 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.

15. The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (12)(i).

16. 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.

17. In the case of an existing public school that is 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 district school board rule 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 charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

18. Full disclosure of the identity of all relatives employed by the charter school who are related to the charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority. For the purpose of this subparagraph, the term “relative” means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

19. Implementation of the activities authorized under s. 1002.331 by the charter school when it satisfies the eligibility requirements for a high-performing charter school. A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable.

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school’s governing board and the approval of both parties to the agreement. Modification may include, but is not limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board and physically located on the same campus, regardless of the renewal cycle.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.

(a) The sponsor shall make student academic achievement for all students the most important factor when determining whether to renew or terminate the charter. The sponsor may also choose not to renew or may terminate the charter for any of the following grounds:

1. Failure to participate in the state’s education accountability system created in s. 1008.31, as required in this section, or 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.

Section 2. Paragraphs (g) and (n) of subsection (9), paragraph (i) of subsection (10), paragraph (a) of subsection (21), and subsection (27) of section 1002.33, Florida Statutes, are amended, paragraphs (o) and (p) are added to subsection (9) of that section, paragraph (c) is added to subsection (16) of that section, and paragraph (c) is added to subsection (26) of that section, to read:

1002.33 Charter schools.—

(9) CHARTER SCHOOL REQUIREMENTS.—

(g)1. In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:

a.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

b.2. At the discretion of the charter school’s 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.

2. Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that 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.

3. A charter school shall provide the sponsor with a concise, uniform, monthly financial statement summary sheet that contains a balance sheet and a statement of revenue, expenditures, and changes in fund balance. The balance sheet and the statement of revenue, expenditures, and changes in fund balance shall be in the governmental funds format prescribed by the Governmental Accounting Standards Board. A charter school shall provide a monthly financial statement to the sponsor unless the charter school is designated as A high-performing charter school pursuant to s. 1002.331, in which case the high-performing charter school may provide a quarterly financial statement in the same format and requirements as the uniform monthly financial statement summary sheet. The financial statement required under this paragraph shall be in a form prescribed by the Department of Education.

4. A charter school shall maintain and provide financial information as required in this paragraph. The financial statement required in subparagraph 3. must be in a form prescribed by the Department of Education.

(n)1. The director and a representative of the governing board of a charter school that has earned a grade of “D” or “F” pursuant to s. 1008.34(2) shall appear before the sponsor to present information concerning each contract component having noted deficiencies. The director and a representative of the governing board shall submit to the sponsor for approval a school improvement plan to raise student achievement. Upon approval by the sponsor, the charter school shall begin implementation of the school improvement plan. The department shall offer technical assistance and training to the charter school and its governing board and establish guidelines for developing, submitting, and approving such plans.

2.a. If a charter school earns three consecutive grades of “D,” two consecutive grades of “D” followed by a grade of “F,” or two nonconsecutive grades of “F” within a 3-year period, the charter school governing board shall choose one of the following corrective actions:

(I) Contract for educational services to be provided directly to students, instructional personnel, and school administrators, as prescribed in state board rule;

(II) Contract with an outside entity that has a demonstrated record of effectiveness to operate the school;

(III) Reorganize the school under a new director or principal who is authorized to hire new staff; or

(IV) Voluntarily close the charter school.

b. The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of “D,” a grade of “F” following two consecutive grades of “D,” or a second nonconsecutive grade of “F” within a 3-year period.

c. The sponsor may annually waive a corrective action if it determines that the charter school is likely to improve a letter grade if additional time is provided to implement the intervention and support strategies prescribed by the school improvement plan. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of “F” is subject to subparagraph 4.

d. A charter school is no longer required to implement a corrective action if it improves by at least one letter grade. However, the charter school must continue to implement strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school’s continued improvement pursuant to subparagraph 5.

e. A charter school implementing a corrective action that does not improve by at least one letter grade after 2 full school years of implementing the corrective action must select a different corrective action. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action, unless the sponsor determines that the charter school is likely to improve a letter grade if additional time is provided to implement the existing corrective action. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of “F” while implementing a corrective action is subject to subparagraph 4.

3. A charter school with a grade of “D” or “F” that improves by at least one letter grade must continue to implement the strategies identified in the school improvement plan. The sponsor must annually review

implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 5.

4. The sponsor shall terminate a charter if the charter school earns two consecutive grades of "F" unless:

a. The charter school is established to turn around the performance of a district public school pursuant to s. 1008.33(4)(b)3. Such charter schools shall be governed by s. 1008.33;

b. The charter school serves a student population the majority of which resides in a school zone served by a district public school that earned a grade of "F" in the year before the charter school opened and the charter school earns at least a grade of "D" in its third year of operation. The exception provided under this sub-subparagraph does not apply to a charter school in its fourth year of operation and thereafter; or

c. The state board grants the charter school a waiver of termination. The charter school must request the waiver within 15 ~~30~~ days after the department's official release completion of school grades ~~grade~~ ~~appeals~~. The state board may waive termination if the charter school demonstrates that the learning gains of its students on statewide assessments are comparable to or better than the learning gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for 1 year and may only be granted once. Charter schools that have been in operation for more than 5 years are not eligible for a waiver under this sub-subparagraph.

5. The director and a representative of the governing board of a graded charter school that has implemented a school improvement plan under this paragraph shall appear before the sponsor at least once a year to present information regarding the progress of intervention and support strategies implemented by the school pursuant to the school improvement plan and corrective actions, if applicable. The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

6. Notwithstanding any provision of this paragraph except sub-subparagraphs 4.a.-c., the sponsor may terminate the charter at any time pursuant to subsection (8).

(o)1. Upon initial notification of nonrenewal, closure, or termination of its charter, a charter school may not expend more than \$10,000 per expenditure without prior written approval from the sponsor unless such expenditure was included within the annual budget submitted to the sponsor pursuant to the charter contract, is for reasonable attorney fees and costs during the pendency of any appeal, or is for reasonable fees and costs to conduct an independent audit.

2. An independent audit shall be completed within 30 days after notice of nonrenewal, closure, or termination to account for all public funds and assets.

3. A provision in a charter contract that contains an acceleration clause requiring the expenditure of funds based upon closure or upon notification of nonrenewal or termination is void and unenforceable.

4. A charter school may not enter into a contract with an employee that exceeds the term of the school's charter contract with its sponsor.

5. A violation of this paragraph triggers a reversion or clawback power by the sponsor allowing for collection of an amount equal to or less than the accelerated amount that exceeds normal expenditures. The reversion or clawback plus legal fees and costs shall be levied against the person or entity receiving the accelerated amount.

(p) Each charter school shall maintain a website that enables the public to obtain information regarding the school; the school's academic performance; the names of the governing board members; the programs at the school; any management companies, service providers, or education management corporations associated with the school; the school's annual budget and its annual independent fiscal audit; the school's grade pursuant to s. 1008.34; and, on a quarterly basis, the minutes of governing board meetings.

(10) ELIGIBLE STUDENTS.—

(i) The capacity of a high-performing charter school identified pursuant to s. 1002.331 shall be determined annually by the governing board of the charter school. The governing board shall notify the sponsor of any increase in enrollment by March 1 of the school year preceding the increase. A sponsor may not require a charter school to identify the names of students to be enrolled or to enroll those students before the start of the school year as a condition of approval or renewal of a charter.

(16) EXEMPTION FROM STATUTES.—

(c) For purposes of subparagraphs (b)4.-7.:

1. The duties assigned to a district school superintendent apply to charter school administrative personnel, as defined in s. 1012.01(3)(a) and (b), and the charter school governing board shall designate at least one administrative person to be responsible for such duties.

2. The duties assigned to a district school board apply to a charter school governing board.

3. A charter school may hire instructional personnel and other employees on an at-will basis.

4. Notwithstanding any provision to the contrary, instructional personnel and other employees on contract may be suspended or dismissed any time during the term of the contract without cause.

(21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

(a) The Department of Education shall provide information to the public, directly and through sponsors, on how to form and operate a charter school and how to enroll in a charter school once it is created. This information shall include a model standard application form format, standard charter contract format, standard evaluation instrument, and standard charter renewal contract format, which shall include the information specified in subsection (7) and shall be developed by consulting and negotiating with both school districts and charter schools before implementation. The charter and charter renewal contracts formats shall be used by charter school sponsors.

(26) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

(c) An employee of the charter school, or his or her spouse, or an employee of a charter management organization, or his or her spouse, may not be a member of the governing board of the charter school.

(27) 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. The State Board of Education shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to implement a charter model application form, standard evaluation instrument, and standard charter and charter renewal contracts formats in accordance with this section.

Section 3. Subsections (2) and (5) of section 1002.331, Florida Statutes, are amended to read:

1002.331 High-performing charter schools.—

(2) A high-performing charter school is authorized to:

(a) Increase its student enrollment once per school year ~~by up to 15 percent~~ more than the capacity identified in the charter, but student enrollment may not exceed the current facility capacity.

(b) Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established in paragraph (a).

(c) Submit a quarterly, rather than a monthly, financial statement to the sponsor pursuant to s. 1002.33(9)(g).

(d) Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools' governing board regardless of the renewal cycle.

(e) Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school. The charter must be consistent with s. 1002.33(7)(a)19. and (10)(h) and (i), is subject to annual review by the sponsor, and may be terminated during its term pursuant to s. 1002.33(8).

A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable. If a charter school notifies the sponsor of its intent to expand, the sponsor shall modify the charter within 90 days to include the new enrollment maximum and may not make any other changes. The sponsor may deny a request to increase the enrollment of a high-performing charter school if the commissioner has declassified the charter school as high-performing. If a high-performing charter school requests to consolidate multiple charters, the sponsor shall have 40 days after receipt of that request to provide an initial draft charter to the charter school. The sponsor and charter school shall have 50 days thereafter to negotiate and notice the charter contract for final approval by the sponsor.

(5) The Commissioner of Education, upon request by a charter school, shall verify that the charter school meets the criteria in subsection (1) and provide a letter to the charter school and the sponsor stating that the charter school is a high-performing charter school pursuant to this section. The commissioner shall annually determine whether a high-performing charter school under subsection (1) continues to meet the criteria in that subsection. Such high-performing charter school shall maintain its high-performing status unless the commissioner determines that the charter school no longer meets the criteria in subsection (1), at which time the commissioner shall send a letter providing notification of its declassification as a high-performing charter school.

Section 4. Paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of section 1002.332, Florida Statutes, are amended to read:

1002.332 High-performing charter school system.—

(1) For purposes of this section, the term:

(b) “High-performing charter school system” means an entity that:

1. Operated ~~Operates~~ at least three high-performing charter schools in the state during each of the previous 3 school years;

2. Operated Operates a system of charter schools in which at least 50 percent of the charter schools were ~~are~~ high-performing charter schools pursuant to s. 1002.331 and no charter school earned a school grade of “D” or “F” pursuant to s. 1008.34 in any of the previous 3 school years regardless of whether the entity currently operates the charter school, except that:

a. If the entity ~~has~~ assumed operation of a public school pursuant to s. 1008.33(4)(b)3. with a school grade of “F,” that school’s grade may not be considered in determining high-performing charter school system status for a period of 3 years.

b. If the entity established ~~establishes~~ a new charter school that served ~~serves~~ a student population the majority of which resided ~~resides~~ in a school zone served by a public school that earned a grade of “F” or three consecutive grades of “D” pursuant to s. 1008.34, that charter school’s grade may not be considered in determining high-performing charter school system status if it attained ~~attains~~ and maintained ~~maintains~~ a school grade that ~~was~~ is higher than that of the public school serving that school zone within 3 years after establishment; and

3. Did ~~Has~~ not receive ~~received~~ a financial audit that revealed one or more of the financial emergency conditions set forth in s. 218.503(1) for any charter school assumed or established by the entity in the most recent 3 fiscal years for which such audits are available.

(2)(a) The Commissioner of Education, ~~upon request by an entity,~~ shall verify all charter schools served by an entity and verify that the entity meets the criteria in this section ~~subsection (1)~~ for the previous ~~prior~~ school year and provide a letter to the entity stating that it is a high-performing charter school system.

1. As part of the commissioner’s verification, the entity shall identify all charter schools in this state which the entity has operated or provided services for the previous 3 years, regardless of whether the entity currently operates or provides services for the charter school. For all such charter schools that the entity no longer operates, the entity shall identify the reasons the entity terminated the operation or services or grounds stated by the charter school’s governing board in terminating the operation or services of the entity.

2. The commissioner shall annually determine whether a high-performing charter school system continues to meet the criteria in this section. A high-performing charter school system shall maintain its high-performing status unless the commissioner determines that the charter school system no longer meets the criteria in this section, at which time the commissioner shall send a letter providing notification of its declassification as a high-performing charter school system.

Section 5. Subsection (6) is added to section 1012.2315, Florida Statutes, to read:

1012.2315 Assignment of teachers.—

(6) ASSIGNMENT OF TEACHERS BASED UPON PERFORMANCE EVALUATIONS.—

(a) If a high school or middle school student is currently taught by a classroom teacher who, during that school year, receives a performance evaluation rating of “needs improvement” or “unsatisfactory” under s. 1012.34, the student may not be assigned the following school year to a classroom teacher in the same subject area who received a performance evaluation rating of “needs improvement” or “unsatisfactory” in the preceding school year.

(b) If an elementary school student is currently taught by a classroom teacher who, during that school year, receives a performance evaluation rating of “needs improvement” or “unsatisfactory” under s. 1012.34, the student may not be assigned the following school year to a classroom teacher who received a performance evaluation rating of “needs improvement” or “unsatisfactory” in the preceding school year.

(c) For a student enrolling in an extracurricular course as defined in s. 1003.01(15), a parent may choose to have the student taught by a teacher who received a performance evaluation of “needs improvement” or “unsatisfactory” in the preceding school year if the student and the student’s parent receive an explanation of the impact of teacher effectiveness on student learning and the principal receives written consent from the parent.

Section 6. Full implementation of online assessments for Next Generation Sunshine State Standards in English/language arts and mathematics adopted under s. 1003.41, Florida Statutes, for all kindergarten through grade 12 public school students shall occur only after the technology infrastructure, connectivity, and capacity of all public schools and school districts have been load tested and independently verified as ready for successful deployment and implementation.

Section 7. The technology infrastructure, connectivity, and capacity of all public schools and school districts that administer statewide standardized assessments pursuant to s. 1008.22, Florida Statutes, including online assessments, shall be load tested and independently verified as appropriate, adequate, efficient, and sustainable.

Section 8. The Department of Education shall develop a proposed statewide, standard charter contract and a proposed definition of the term “management company” by consulting and negotiating with school districts and charter schools and provide the proposed charter contract to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2013.

Section 9. Subsection (9) is added to section 1002.31, Florida Statutes, to read:

1002.31 Public school parental choice.—

(9) For a school or program that is a public school of choice under this section, the calculation for compliance with maximum class size pursuant to s. 1003.03 is the average number of students at the school level.

Section 10. Section 1002.451, Florida Statutes, is created to read:

1002.451 District innovation school of technology program.—

(1) DISTRICT INNOVATION SCHOOL OF TECHNOLOGY.—

(a) A district school board may operate an innovation school of technology for the purpose of developing the innovative use of industry-leading technology while requiring high student academic achievement and accountability in exchange for flexibility and exemption from specified statutes and rules. The innovation school of technology shall operate within existing resources.

(b) An innovation school of technology is a school that has, on a schoolwide basis, adopted and implemented a blended learning program. A blended learning program is an education program in which a student learns in part through online delivery of content and instruction with some element of student control over time, place, path, or pace and in part at a supervised brick-and-mortar location away from home. Blended learning models must include major components such as differentiated instruction, data-driven placement, flexible scheduling, differentiated teaching, and self-paced learning. The school may use one of the following blended learning models:

1. Flipped classroom model in which students use online instructional videos and practice concepts in the classroom with the support of the teacher;

2. Flex model in which students learn primarily online and teachers act as facilitators; or

3. Rotation model in which students move between different learning modalities, such as online instruction, teacher-directed instruction, seminar or group projects, and one-on-one teacher coaching. Rotation models include individual, station, and laboratory models.

(c) An innovation school of technology must be open to any student covered in an interdistrict agreement or residing in the school district in which the innovation school of technology is located. An innovation school of technology shall enroll an eligible student who submits a timely application if the number of applications does not exceed the capacity of a program, class, grade level, or building. If the number of applications exceeds capacity, all applicants shall have an equal chance of being admitted through a public random selection process. However, a district may give enrollment preference to students who identify the innovation school of technology as the

student's preferred choice pursuant to the district's controlled open enrollment plan.

(2) GUIDING PRINCIPLES.—An innovation school of technology shall be guided by the following principles:

(a) Meet high standards of student achievement in exchange for flexibility with respect to statutes or rules.

(b) Implement innovative learning methods and assessment tools to implement a schoolwide transformation regarding industry-leading technology to improve student learning and academic achievement.

(c) Promote enhanced academic success and financial efficiency by aligning responsibility with accountability and industry-leading technology.

(d) Measure student performance based on student learning growth, or based on student achievement if student learning growth cannot be measured.

(e) Provide a parent with sufficient information as to whether his or her child is reading at grade level and making learning gains each year.

(f) Incorporate industry certifications and similar recognitions into performance expectations.

(g) Focus on utilizing industry-leading hardware and software technology for student individual use and to develop the school's infrastructure in furtherance of this section.

(3) TERM OF PERFORMANCE CONTRACT.—An innovation school of technology may operate pursuant to a performance contract with the State Board of Education for a period of 5 years.

(a) Before expiration of the performance contract, the school's performance shall be evaluated against the eligibility criteria, purpose, guiding principles, and compliance with the contract to determine whether the contract may be renewed. The contract may be renewed every 5 years.

(b) The performance contract shall be terminated by the State Board of Education if:

1. The school receives a grade of "F" as an innovation school of technology for 2 consecutive years;

2. The school or district fails to comply with the criteria in this section;

3. The school or district does not comply with terms of the contract which specify that a violation results in termination; or

4. Other good cause is shown.

(4) FUNDING.—A district school board operating an innovation school of technology shall report full-time equivalent students to the department in a manner prescribed by the department, and funding shall be provided through the Florida Education Finance Program as provided in ss. 1011.61 and 1011.62. An innovation school of technology may seek and receive additional funding through incentive grants or public or private partnerships.

(5) EXEMPTION FROM STATUTES.—

(a) An innovation school of technology is exempt from chapters 1000-1013. However, an innovation school of technology shall comply with the following provisions of those chapters:

1. Laws pertaining to the following:

- a. Schools of technology, including this section.
- b. Student assessment program and school grading system.
- c. Services to students who have disabilities.
- d. Civil rights, including s. 1000.05, relating to discrimination.
- e. Student health, safety, and welfare.

2. Laws governing the election and compensation of district school board members and election or appointment and compensation of district school superintendents.

3. Section 1003.03, governing maximum class size, except that the calculation for compliance pursuant to s. 1003.03 is the average at the school level.

4. Sections 1012.22(1)(c) and 1012.27(2), relating to compensation and salary schedules.

5. Section 1012.33(5), relating to workforce reductions, for annual contracts for instructional personnel. This subparagraph does not apply to at-will employees.

6. Section 1012.335, relating to contracts with instructional personnel hired on or after July 1, 2011, for annual contracts for instructional personnel. This subparagraph does not apply to at-will employees.

7. Section 1012.34, relating to requirements for performance evaluations of instructional personnel and school administrators.

(b) An innovation school of technology shall also comply with chapter 119 and s. 286.011, relating to public meetings and records, public inspection, and criminal and civil penalties.

(c) An innovation school of technology is exempt from ad valorem taxes and the State Requirements for Educational Facilities when leasing facilities.

(6) APPLICATION PROCESS AND PERFORMANCE CONTRACT.—

(a) A district school board may apply to the State Board of Education for an innovation school of technology if the district:

1. Has at least 20 percent of its total enrollment in public school choice programs or at least 5 percent of its total enrollment in charter schools;

2. Has no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted pursuant to s. 218.39; and

3. Has received a district grade of “A” or “B” in each of the past 3 years.

(b) A district school board may operate one innovation school of technology upon an application being approved by the State Board of Education.

1. A district school board may apply to the State Board of Education to establish additional schools of technology if each existing innovation school of technology in the district:

a. Meets all requirements in this section and in the performance contract;

b. Has a grade of “A” or “B”; and

c. Has at least 50 percent of its students exceed the state average on the statewide assessment program pursuant to s. 1008.22. This comparison may take student subgroups, as defined in the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v)(II), into specific consideration so that at least 50 percent of students in each student subgroup meet or exceed the statewide average performance, rounded to the nearest whole number, of that particular subgroup.

2. Notwithstanding subparagraph 1., the number of schools of technology in a school district may not exceed:

a. Seven in a school district that has 100,000 or more students.

b. Five in a school district that has 50,000 to 99,999 students.

c. Three in a school district that has fewer than 50,000 students.

(c) A school district that meets the eligibility requirements of paragraph (a) may apply to the State Board of Education at any time to enter into a performance contract to operate an innovation school of technology. The application must, at a minimum:

1. Demonstrate how the school district meets and will continue to meet the requirements of this section;

2. Identify how the school will accomplish the purposes and guiding principles of this section;

3. Identify the statutes or rules from which the district is seeking a waiver for the school;

4. Identify and provide supporting documentation for the purpose and impact of each waiver, how each waiver would enable the school to achieve the purpose and guiding principles of this section, and how the school would not be able to achieve the purpose and guiding principles of this section without each waiver; and

5. Confirm that the school board remains responsible for the operation, control, and supervision of the school in accordance with all applicable laws, rules, and district procedures not waived pursuant to this section or waived pursuant to other applicable law.

(d) The State Board of Education shall approve or deny the application within 90 days or, with the agreement of the school district, at a later date.

(e) The performance contract must address the terms under which the State Board of Education may cancel the contract and, at a minimum, the methods by which:

1. Upon execution of the performance contract, the school district will plan the program during the first year, begin at least partial implementation of the program during the second year, and fully implement the program by the third year. A district may implement the program sooner than specified in this subparagraph if authorized in the performance contract.

2. The school will integrate industry-leading technology into instruction, assessment, and professional development. The school may also restructure the school day or school year in a way that allows it to best accomplish its goals.

3. The school and district will monitor performance progress based on skills that help students succeed in college and careers, including problem solving, research, interpretation, and communication.

4. The school will incorporate industry certifications and similar recognitions into performance expectations.

5. The school and district will comply with this section and the performance contract.

(f) Three or more contiguous school districts may apply to enter into a joint performance contract as a Region of Technology, subject to terms and conditions contained in this section for a single school district.

(g) The State Board of Education shall monitor schools of technology to ensure that the respective school district is in compliance with this section and the performance contract.

(h) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section, including, but not limited to, an application, evaluation instrument, and renewal evaluation instrument.

(i) This section does not supersede the provisions of s. 768.28.

(7) REPORTS.—The school district of an innovation school of technology shall submit to the State Board of Education, the President of the Senate, and the Speaker of the House of Representatives an annual report by December 1 of each year which delineates the performance of the innovation school of technology as it relates to the academic performance of students. The annual report shall be submitted in a format prescribed by the Department of Education and must include, but need not be limited to, the following:

(a) Evidence of compliance with this section.

(b) Efforts to close the achievement gap.

(c) Longitudinal performance of students, by grade level and subgroup, in mathematics, reading, writing, science, and any other subject that is included as a part of the statewide assessment program in s. 1008.22.

(d) Longitudinal performance for students who take an Advanced Placement Examination, organized by age, gender, and race, and for students who participate in the National School Lunch Program.

(e) Number and percentage of students who take an Advanced Placement Examination.

(f) Identification and analysis of industry-leading technology used to comply with this section, including, but not limited to, recommendations and lessons learned from such use.

Section 11. This act shall take effect July 1, 2013.

Approved by the Governor June 28, 2013.

Filed in Office Secretary of State June 28, 2013.