

House Bill No. 55-A

An act relating to charter schools; amending s. 1002.33, F.S.; providing guiding principles; requiring an emphasis on reading; requiring certain accountability measures; authorizing community colleges to develop charter schools; revising application requirements; requiring fiscal projections in a charter application; extending the time allowed for the State Board of Education to act on an appeal; requiring auditors to provide notification of certain financial conditions; providing additional requirements for a charter school's annual report; eliminating limitations on the number of charter schools per school district; revising administrative fees charged by the sponsor for the provision of services; providing a report to the Governor; amending s. 1002.32, F.S.; correcting a cross reference; providing exceptions to the one lab school per university limitation; revising provisions relating to funding for lab schools; revising provisions relating to employees of lab schools; amending s. 1011.68, F.S.; correcting a cross reference; amending s. 1013.62, F.S.; revising eligibility criteria for charter school capital outlay funding; revising purposes for charter school capital outlay funds; providing allocation criteria for charter school capital outlay appropriations; providing for construction of the act in pari materia with laws enacted during Regular Session of the Legislature; providing an effective date.

WHEREAS, in the 2002-2003 school year, Florida has 223 charter schools educating approximately 51,000 Florida students, with a projected increase of 117 additional charter schools in the next school year, and

WHEREAS, this rate of growth is a dramatic increase over the prior averages of 36 charter schools per year, and

WHEREAS, while charter schools are public schools, their unique populations or small size mean that few of them are eligible for inclusion in the state's accountability system, with only 38 of the 173 charter schools receiving a school performance grade in 2002, and

WHEREAS, the issue of charter school accountability is of the utmost importance at this time of budget constraints and heightened awareness of public ethics, NOW, THEREFORE,

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

Section 1. Subsections (2), (5), (6), (7), (8), (9), (10), (13), (21), and (24) of section 1002.33, Florida Statutes, are amended and present subsections (14) through (26) are renumbered as subsections (13) through (25), respectively, to read:

1002.33 Charter schools.—

(2) GUIDING PRINCIPLES; PURPOSE.—

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

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

2. Promote enhanced academic success and financial efficiency by aligning responsibility with accountability.

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

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

1. Improve student learning and academic achievement.

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

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

4. Encourage the use of innovative learning methods.

5. Require the measurement of learning outcomes.

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

1. Create innovative measurement tools.

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

3. Expand the capacity of the public school system.

(5) SPONSOR; DUTIES.—

(a) Sponsoring entities.—

1. A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.

2.(b) A state university may grant a charter to a lab school created under s. 1002.32 and shall be considered to be the school's sponsor. Such school shall be considered a charter lab school.

(b) Sponsor duties.—

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

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

3.(e) The 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.

4.(f) The sponsor's policies shall not apply to a charter school.

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

6. ~~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.~~

A community college 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. District school boards shall cooperate with and assist the community college on the charter application. Community college 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. Community colleges shall not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

(6) APPLICATION PROCESS AND REVIEW.—Beginning September 1, 2003, applications are subject to the following requirements:

(a) A person or entity wishing to open a charter school shall prepare an application that:

1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.

2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.

3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.

4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.

5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan

based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

(b)(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 September 1 ~~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 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 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. 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.

3.2. A district school board shall 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 shall 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 ~~(c)~~~~(b)~~. If an application is denied, the district school board shall, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the charter application.

4.3. For budget projection purposes, the district school board or other 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.

5.4. 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 district school board allows a waiver of this provision for good cause.

(c)(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 district school board 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 no later than 7 calendar days prior to the date on which the appeal is to be heard. The State Board of Education shall by majority vote accept or reject the decision of the district school board no later than ~~90~~ 60 calendar days after an appeal is filed in accordance with State Board of Education rule. The Charter School Appeal Commission 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 State Board of Education 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 district school board's denial of the charter application. The State Board of Education shall remand the application to the district school board with its written decision that the district school board approve or deny the application. The district school board 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.

(d)(e) The district school board shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review.

(e)(d)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charters have been denied or whose charter contracts have not been renewed by their sponsors.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint the members of the Charter School Appeal Commission. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. One-half of the members must represent currently operating charter schools, and one-half of the members must represent school districts. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

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

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

~~(h)~~(g) 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.

(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 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, 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. 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 Sunshine State Standards and grounded in scientifically based reading research.

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 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.

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 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. 1003.43.

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. The asset and liability projections required in the application which are incorporated into the charter and which shall be compared with information provided in the annual report of the charter school. The charter shall ensure that, if a charter school internal audit reveals a deficit financial position, the auditors are required to notify the charter school governing board, the sponsor, and the Department of Education. The internal auditor shall report such findings in the form of an exit interview to the principal or the principal administrator of the charter school and the chair of the governing board within 7 working days after finding the deficit position. A final report shall be provided to the entire governing board, the sponsor, and the Department of Education within 14 working days after the exit interview.

11.10. 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.

12.11. 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 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 10-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 for specific good cause according to the provisions set forth in subsection (8).

~~13.12.~~ The facilities to be used and their location.

~~14.13.~~ 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.

~~15.14.~~ 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).

~~16.15.~~ 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.

~~17.16.~~ 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 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.

(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 (8)(a) has 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.

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

(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 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.

(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 (6).

(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 (6).

(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. Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.

(f) If a charter is not renewed or is terminated, the charter 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.

(9) CHARTER SCHOOL 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 (10).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).

(d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(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. 1000.05.

(g) A charter school shall provide for an annual financial audit in accordance with s. 218.39.

(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. 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.

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

(k) 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:~~

(l) The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall include in its compilation a notation if a school failed to file its report by the deadline established by the department. The report shall include at least the following components:

1. Student achievement performance data, including the information required for the annual school report and the education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the charter. The charter school shall identify reasons for any difference between projected and actual student performance ~~The charter school's progress toward achieving the goals outlined in its charter.~~

2. Financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the ability to meet financial obligations and timely repayment of debt ~~The information required in the annual school report pursuant to s. 1008.345.~~

3. Documentation of the facilities in current use and any planned facilities for use by the charter school for instruction of students, administrative functions, or investment purposes ~~Financial records of the charter school, including revenues and expenditures.~~

4. Descriptive information about the charter school's personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.

~~(m)(4)~~ A charter school shall not levy taxes or issue bonds secured by tax revenues.

~~(n)(m)~~ 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.

(10) 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 charter lab school, the charter lab school shall be open to any student eligible to attend the lab school as provided in s. 1002.32 or who resides in the school district in which the charter lab school is located. Any eligible student shall be allowed interdistrict transfer to attend a charter school when based on good cause.

(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) When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school.

(d) A charter school may give enrollment preference to the following student populations:

1. Students who are siblings of a student enrolled in the charter school.
2. Students who are the children of a member of the governing board of the charter school.
3. Students who are the children of an employee of the charter school.

(e) 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 (15)(16).
4. Students residing within a reasonable distance of the charter school, as described in paragraph ~~(20)(21)~~(c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (7)(a)8, or any federal provisions that 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 shall 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 that has been approved by the sponsor.

(f) 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.

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

(h) 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.

~~(13) 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 toward the limit established by paragraph (a).~~

~~(c) 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.~~

~~(d) 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 shall then be designated as one charter school for all purposes listed pursuant to this section.~~

~~(20)(21) SERVICES.—~~

(a) A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services. A total administrative fee for the provision of such services shall be calculated based upon 5 percent of the available funds defined in paragraph (17)(b) for all students. However, a sponsor may only withhold a 5-percent administrative fee for enrollment for up to and including 500 students. For charter schools with a population of 501 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2) ~~Any administrative fee charged by the sponsor for the provision of services shall be limited to 5 percent of the available funds defined in paragraph (18)(b).~~

(b) If 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.

(c) Transportation of charter school students shall be provided by the charter school consistent with the requirements of subpart I.e. of chapter 1006. 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.

~~(23)~~(24) ANALYSIS OF CHARTER SCHOOL PERFORMANCE.—Upon receipt of the annual report required by paragraph ~~(9)(1)(9)(k)~~, the Department of Education shall provide to the State Board of Education, the Commissioner of Education, ~~the Governor~~, 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 statewide assessment program, versus comparable public school students in the district as determined by the statewide assessment program currently administered in the school district, and other assessments administered pursuant to s. 1008.22(3).

Section 2. Subsection (2) and paragraphs (a), (c), and (h) of subsection (9) of section 1002.32, Florida Statutes, are amended to read:

1002.32 Developmental research (laboratory) schools.—

(2) ESTABLISHMENT.—There is established a category of public schools to be known as developmental research (laboratory) schools (lab schools). Each lab school shall provide sequential instruction and shall be affiliated with the college of education within the state university of closest geographic proximity. A lab school to which a charter has been issued under s. 1002.33~~(5)(a)2.(5)(b)~~ must be affiliated with the college of education within the state university that issued the charter, but is not subject to the requirement that the state university be of closest geographic proximity. For the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school ~~one or more lab schools~~. The limitation of one lab school per university shall not apply to the following charter lab schools authorized prior to June 1, 2003: Florida State University Charter Lab Elementary School in Broward County, Florida Atlantic University Charter Lab 9-12 High School in Palm Beach County, and Florida Atlantic University Charter Lab K-12 School in St. Lucie County.

(9) FUNDING.—Funding for a lab school, including a charter lab school, shall be provided as follows:

(a) Each lab school shall be allocated its proportional share of operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act. The nonvoted ad valorem millage that would otherwise be required for lab schools shall be allocated from state funds. The required local effort funds calculated pursuant to s. 1011.62 shall be allocated from state funds to the schools as a part of the allocation of operating funds pursuant to s. 1011.62. Each eligible lab school in operation as of September 1, 2002, shall also receive a proportional share of the sparsity supplement as calculated pursuant to s. 1011.62. In addition, each lab school shall receive its proportional share of all categorical funds, with the exception of s. 1011.68, and new categorical funds enacted after July 1, 1994, for the purpose of elementary or secondary academic program enhancement. The sum of funds available as provided in this paragraph shall be included annually in the Florida Education Finance Program and appropriate categorical programs funded in the General Appropriations Act.

(c) All operating funds provided under this section shall be deposited in a Lab School Trust Fund and shall be expended for the purposes of this section. The university assigned a lab school shall be the fiscal agent for these funds, and all rules of the university governing the budgeting and expenditure of state funds shall apply to these funds unless otherwise provided by law or rule of the State Board of Education. The university board of trustees shall be the public employer of lab school personnel for collective bargaining purposes for lab schools in operation prior to the 2002-2003 fiscal year. Employees of charter lab schools authorized prior to June 1, 2003, but not in operation prior to the 2002-2003 fiscal year shall be employees of the entity holding the charter and must comply with the provisions of s. 1002.33(12).

(h) A lab school to which a charter has been issued under s. 1002.33~~(5)(a)2.(5)(b)~~ is eligible to receive funding for charter school capital outlay if it meets the eligibility requirements of s. 1013.62. If the lab school receives funds from charter school capital outlay, the school shall receive capital outlay funds otherwise provided in this subsection only to the extent that funds allocated pursuant to s. 1013.62 are insufficient to provide capital outlay funds to the lab school at one-fifteenth of the cost per student station.

Section 3. Section 1011.68, Florida Statutes, is amended to read:

1011.68 Funds for student transportation.—The annual allocation to each district for transportation to public school programs, including charter schools as provided in s. 1002.33~~(17)(18)(b)~~, of students in membership in kindergarten through grade 12 and in migrant and exceptional student programs below kindergarten shall be determined as follows:

(1) Subject to the rules of the State Board of Education, each district shall determine the membership of students who are transported:

(a) By reason of living 2 miles or more from school.

(b) By reason of being students with disabilities or enrolled in a teenage parent program, regardless of distance to school.

(c) By reason of being in a state prekindergarten program, regardless of distance from school.

(d) By reason of being career and technical, dual enrollment, or students with disabilities transported from one school center to another to participate in an instructional program or service; or students with disabilities, transported from one designation to another in the state, provided one designation is a school center and provided the student's individual educational plan (IEP) identifies the need for the instructional program or service and transportation to be provided by the school district. A "school center" is defined as a public school center, community college, state university, or other facility rented, leased, or owned and operated by the school district or another public agency. A "dual enrollment student" is defined as a public school student in membership in both a public secondary school program and a community college or a state university program under a written agreement to partially fulfill ss. 1003.435 and 1007.23 and earning full-time equivalent membership under s. 1011.62(1)(i).

(e) With respect to elementary school students whose grade level does not exceed grade 6, by reason of being subjected to hazardous walking conditions en route to or from school as provided in s. 1006.23. Such rules shall, when appropriate, provide for the determination of membership under this paragraph for less than 1 year to accommodate the needs of students who require transportation only until such hazardous conditions are corrected.

(f) By reason of being a pregnant student or student parent, and the child of a student parent as provided in s. 1003.54, regardless of distance from school.

(2) The allocation for each district shall be calculated annually in accordance with the following formula:

$T = B + EX$. The elements of this formula are defined as follows: T is the total dollar allocation for transportation. B is the base transportation dollar allocation prorated by an adjusted student membership count. The adjusted membership count shall be derived from a multiplicative index function in which the base student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. EX is the base transportation dollar allocation for disabled students prorated by an adjusted disabled student membership count. The base transportation dollar allocation for disabled students is the total state base disabled student membership count weighted for increased costs associated with transporting disabled students and multiplying it by the prior year's average per student cost for transportation. The adjusted disabled student membership count shall be derived from a multiplicative index function in which the weighted base disabled student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. Each adjustment factor shall be designed to affect the base allocation by no more or less than 10 percent.

(3) The total allocation to each district for transportation of students shall be the sum of the amounts determined in subsection (2). If the funds appropriated for the purpose of implementing this section are not sufficient to pay the base transportation allocation and the base transportation allocation for disabled students, the Department of Education shall prorate the available funds on a percentage basis. If the funds appropriated for the purpose of implementing this section exceed the sum of the base transportation allocation and the base transportation allocation for disabled students, the base transportation allocation for disabled students shall be limited to the amount calculated in subsection (2), and the remaining balance shall be added to the base transportation allocation.

(4) No district shall use funds to purchase transportation equipment and supplies at prices which exceed those determined by the department to be the lowest which can be obtained, as prescribed in s. 1006.27(1).

(5) Funds allocated or apportioned for the payment of student transportation services may be used to pay for transportation of students to and from school on local general purpose transportation systems. Student transportation funds may also be used to pay for transportation of students to and from school in private passenger cars and boats when the transportation is for isolated students, or students with disabilities as defined by rule. Subject to the rules of the State Board of Education, each school district shall determine and report the number of assigned students using general purpose transportation private passenger cars and boats. The allocation per student must be equal to the allocation per student riding a school bus.

(6) Notwithstanding other provisions of this section, in no case shall any student or students be counted for transportation funding more than once per day. This provision includes counting students for funding pursuant to trips in school buses, passenger cars, or boats or general purpose transportation.

(7) Any funds received by a school district under this section that are not required to transport students may, at the discretion of the district school board, be transferred to the district's Florida Education Finance Program.

Section 4. Section 1013.62, Florida Statutes, is amended to read:

1013.62 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:

- (a)1. Have been in operation for 3 or more years;
2. Be an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds; or
3. Have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools.

(b) Have financial stability for future operation as a charter school.

(c) Have satisfactory student achievement based on state accountability standards applicable to the charter school.

(d) Have received final approval from its sponsor pursuant to s. 1002.33 for operation during that fiscal year.

(e) Serve students in facilities that are not provided by the charter school's sponsor meet the provisions of subsection (6), must have received final approval from its sponsor pursuant to s. 1002.33 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. 1013.64(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. However, no charter school or charter lab school shall receive state charter school capital outlay funds in excess of the one-fifteenth cost per student station formula if the charter school's combination of state charter school capital outlay funds, capital outlay funds calculated through the reduction in the administrative fee provided in s. 1002.33(20), and capital outlay funds allowed in s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per student station formula. 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. The commissioner shall establish the intervals and procedures for determining the projected and actual student enrollment of eligible charter schools.

(2) A charter school's governing body may use charter school capital outlay funds for the following purposes ~~any capital outlay purpose that is directly related to the functioning of the charter school, including the:~~

- (a) Purchase of real property.
- (b) Construction, ~~renovation, repair, and maintenance~~ of school facilities.
- (c) Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- (d) Purchase of vehicles to transport students to and from the charter school.
- (e) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.

Conversion charter schools may use capital outlay funds received through the reduction in the administrative fee provided in s. 1002.33(20) for renovation, repair, and maintenance of school facilities that are owned by the sponsor.

(3) When a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with district public funds shall revert to the ownership of the district school board, as provided for in s. 1002.33(8)(e) and (f). In the case of a charter lab school, any unencumbered funds and all equipment and property purchased with university public funds shall revert to the ownership of the state university that issued the charter. The reversion of such equipment, property, and furnishings shall focus on recoverable assets, but not on intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. The reversion of all property secured with public funds is subject to the complete satisfaction of all lawful liens or encumbrances. If there are additional local issues such as the shared use of facilities or partial ownership of facilities or property, these issues shall be agreed to in the charter contract prior to the expenditure of funds.

(4) The Commissioner of Education shall specify procedures for submitting and approving requests for funding under this section and procedures for documenting expenditures.

(5) The annual legislative budget request of the Department of Education shall include a request for capital outlay funding for charter schools. The request shall be based on the projected number of students to be served in charter schools who meet the eligibility requirements of this section. A dedicated funding source, if identified in writing by the Commissioner of Education and submitted along with the annual charter school legislative budget request, may be considered an additional source of funding.

(6) Unless authorized otherwise by the Legislature, allocation and proration of charter school capital outlay funds shall be made to eligible charter schools by the Commissioner of Education in an amount and in a manner authorized by subsection (1).

(7) Notwithstanding the provisions of this section, beginning in the 2003-2004 fiscal year:

(a) If the appropriation for charter school capital outlay funds is no greater than the 2002-2003 appropriation, the funds shall be allocated according to the formula outlined in subsection (1) to:

1. The same schools that received funding in 2002-2003.
2. Schools that are an expanded feeder pattern of schools that received funding in 2002-2003.
3. Schools that have an approved charter and are serving students at the start of the 2003-2004 school year and either incurred long-term financial obligations prior to January 31, 2003, or began construction on educational facilities prior to December 31, 2002.

(b) If the appropriation for charter school capital outlay funds is less than the 2002-2003 appropriation, the funds shall be prorated among the schools eligible in paragraph (a).

(c) If the appropriation for charter school capital outlay funds is greater than the 2002-2003 appropriation, the amount of funds provided in the 2002-2003 appropriation shall be allocated according to paragraph (a). First priority for allocating the amount in excess of the 2002-2003 appropriation shall be to prorate the excess funds among the charter schools with long-term debt or long-term lease to the extent that the initial allocation is insufficient to provide one-fifteenth of the cost per student station specified in s. 1013.64(6)(b), and second priority shall be to other eligible charter schools.

Section 5. If any law amended by this act was also amended by a law enacted at the 2003 Regular Session of the Legislature, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.

Section 6. This act shall take effect July 1, 2003.

Approved by the Governor June 9, 2003.

Filed in Office Secretary of State June 9, 2003.