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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2014	.	
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Appropriations Subcommittee on Education (Legg) recommended the following:

Senate Substitute for Amendment (393610) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (3), paragraphs (b), (c), and (h) of subsection (6), paragraph (a) of subsection (7), paragraphs (n) and (o) of subsection (9), and paragraph (g) of subsection (10) of section 1002.33, Florida Statutes, are amended to read:



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21 1002.33 Charter schools.—

22 (3) APPLICATION FOR CHARTER STATUS.—

23 (a) An application for a new charter school may be made by
24 an individual, teachers, parents, a group of individuals, a
25 municipality, or a legal entity organized under the laws of this
26 state. An application for a charter school may be made by the
27 military installation commander of a military installation, if
28 the commander is a member of the charter school's not-for-profit
29 governing board, the charter school is located on the military
30 installation, and the governing board operates the charter
31 school or contracts with a management company or similar entity
32 to operate the charter school.

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

35 (b) A sponsor shall receive and review all applications for
36 a charter school using the ~~an~~ evaluation instrument developed by
37 the Department of Education. A sponsor shall receive and
38 consider charter school applications received on or before
39 August 1 of each calendar year for charter schools to be opened
40 at the beginning of the school district's next school year, or
41 to be opened at a time agreed to by the applicant and the
42 sponsor. A sponsor may not refuse to receive a charter school
43 application submitted before August 1 and may receive an
44 application submitted later than August 1 if it chooses. In
45 order to facilitate greater collaboration in the application
46 process, an applicant may submit a draft charter school
47 application on or before May 1 with an application fee of \$500.
48 If a draft application is timely submitted, the sponsor shall
49 review and provide feedback as to material deficiencies in the



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50 application by July 1. The applicant shall then have until
51 August 1 to resubmit a revised and final application. The
52 sponsor may approve the draft application. A sponsor may not
53 charge an applicant for a charter any fee for the processing or
54 consideration of an application, and a sponsor may not base its
55 consideration or approval of a final application upon the
56 promise of future payment of any kind. Before approving or
57 denying any final application, the sponsor shall allow the
58 applicant, upon receipt of written notification, at least 7
59 calendar days to make ~~technical or nonsubstantive~~ corrections
60 and clarifications to address any deficiencies, ~~including, but~~
61 ~~not limited to, corrections of grammatical, typographical, and~~
62 ~~like errors or missing signatures, if such errors are identified~~
63 by the sponsor as cause to deny the final application.

64 1. In order to facilitate an accurate budget projection
65 process, a sponsor shall be held harmless for FTE students who
66 are not included in the FTE projection due to approval of
67 charter school applications after the FTE projection deadline.
68 In a further effort to facilitate an accurate budget projection,
69 within 15 calendar days after receipt of a charter school
70 application, a sponsor shall report to the Department of
71 Education the name of the applicant entity, the proposed charter
72 school location, and its projected FTE.

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



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79 costs.

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

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

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

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

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

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



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

111
112 Material noncompliance is a failure to follow requirements or a
113 violation of prohibitions applicable to charter school
114 applications, which failure is quantitatively or qualitatively
115 significant either individually or when aggregated with other
116 noncompliance. An applicant is considered to be replicating a
117 high-performing charter school if the proposed school is
118 substantially similar to at least one of the applicant's high-
119 performing charter schools and the organization or individuals
120 involved in the establishment and operation of the proposed
121 school are significantly involved in the operation of replicated
122 schools.

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

133 4. For budget projection purposes, the sponsor shall report
134 to the Department of Education the approval or denial of a
135 charter application within 10 calendar days after such approval
136 or denial. In the event of approval, the report to the



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137 Department of Education shall include the final projected FTE
138 for the approved charter school.

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

143 (c)1. An applicant may appeal any denial of that
144 applicant's application or failure to act on an application to
145 the State Board of Education within ~~no later than~~ 30 calendar
146 days after receipt of the sponsor's decision or failure to act
147 and shall notify the sponsor of its appeal. Any response of the
148 sponsor shall be submitted to the State Board of Education
149 within 30 calendar days after notification of the appeal. Upon
150 receipt of notification from the State Board of Education that a
151 charter school applicant is filing an appeal, the Commissioner
152 of Education shall convene a meeting of the Charter School
153 Appeal Commission to study and make recommendations to the State
154 Board of Education regarding its pending decision about the
155 appeal. The commission shall forward its recommendation to the
156 state board at least 7 calendar days before the date on which
157 the appeal is to be heard. An appeal regarding the denial of an
158 application submitted by a high-performing charter school
159 pursuant to s. 1002.331 shall be conducted by the State Board of
160 Education in accordance with this paragraph, except that the
161 commission shall not convene to make recommendations regarding
162 the appeal. However, the Commissioner of Education shall review
163 the appeal and make a recommendation to the state board.

164 2. The Charter School Appeal Commission or, in the case of
165 an appeal regarding an application submitted by a high-



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166 performing charter school, the State Board of Education may
167 reject an appeal submission for failure to comply with
168 procedural rules governing the appeals process. The rejection
169 shall describe the submission errors. The appellant shall have
170 15 calendar days after notice of rejection in which to resubmit
171 an appeal that meets the requirements set forth in State Board
172 of Education rule. An appeal submitted subsequent to such
173 rejection is considered timely if the original appeal was filed
174 within 30 calendar days after receipt of notice of the specific
175 reasons for the sponsor's denial of the charter application.

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

185 b. If an appeal concerns an application submitted by a
186 high-performing charter school identified pursuant to s.
187 1002.331, the State Board of Education shall determine whether
188 the sponsor's denial of the application complies with the
189 requirements in sub-subparagraph (b)3.b. sponsor has shown, by
190 clear and convincing evidence, that:

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

193 ~~(II) The charter school proposed in the application does~~
194 ~~not materially comply with the requirements in paragraphs~~



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195 ~~(9) (a) - (f);~~

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

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

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

205

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

215 (h)1. The terms and conditions for the operation of a
216 charter school shall be set forth by the sponsor and the
217 applicant in a written contractual agreement, called a charter.
218 The sponsor may not impose unreasonable rules or regulations
219 that violate the intent of giving charter schools greater
220 flexibility to meet educational goals. The sponsor has 30 days
221 after approval of the application to provide an initial proposed
222 charter contract to the charter school. The applicant and the
223 sponsor have 40 days thereafter to negotiate and notice the



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224 charter contract for final approval by the sponsor unless both
225 parties agree to an extension. The proposed charter contract
226 shall be provided to the charter school at least 7 calendar days
227 prior to the date of the meeting at which the charter is
228 scheduled to be voted upon by the sponsor.

229 2. The Department of Education shall provide mediation
230 services for any dispute regarding this section subsequent to
231 the approval of a charter application and for any dispute
232 relating to the approved charter, except disputes regarding
233 charter school application denials.

234 3. If the Commissioner of Education determines that a the
235 dispute cannot be settled through mediation, or if the sponsor
236 or charter school requests to bypass mediation, a the dispute
237 must be immediately forwarded ~~may be appealed~~ to an
238 administrative law judge appointed by the Division of
239 Administrative Hearings.

240 a. The administrative law judge must issue a summary final
241 order for a dispute regarding language to be included in the
242 initial charter contract. The administrative law judge may
243 consider all documents determined necessary by the
244 administrative law judge to issue the summary final order. The
245 administrative law judge must hold at least one conference with
246 the parties to discuss the dispute, and may require other
247 proceedings only if determined necessary by the administrative
248 law judge. The summary final order must consist of a summary of
249 the facts and law, the position of the charter school and
250 sponsor, the administrative law judge's disposition of the
251 dispute and supporting rationale, and may include other
252 information if determined necessary by the administrative law



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253 judge. The administrative law judge's summary final order must
254 be issued within 30 calendar days after receipt of the referral
255 of the dispute from the Commissioner of Education.

256 b. The administrative law judge has final order authority
257 to rule on issues of equitable treatment of the charter school
258 as a public school, whether proposed provisions of ~~the~~ charter
259 renewals or amendments violate the intended flexibility granted
260 charter schools by statute, or on any other matter regarding
261 this section except a charter school application denial, a
262 charter termination, or a charter nonrenewal.

263 c. The administrative law judge's summary final order or
264 final order pursuant to this subparagraph ~~and~~ shall award the
265 prevailing party reasonable attorney's fees and costs incurred
266 to be paid by the losing party. The costs of the administrative
267 hearing shall be paid by the party whom the administrative law
268 judge rules against.

269 (7) CHARTER.— The major issues involving the operation of a
270 charter school shall be considered in advance and written into
271 the charter. The charter shall be signed by the governing board
272 of the charter school and the sponsor, following a public
273 hearing to ensure community input.

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

276 12. The term of the charter which shall provide for
277 cancellation of the charter if insufficient progress has been
278 made in attaining the student achievement objectives of the
279 charter and if it is not likely that such objectives can be
280 achieved before expiration of the charter. The initial term of
281 the a charter, which shall be for 4 or 5 years. ~~In order to~~



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282 ~~facilitate access to long-term financial resources for charter~~
283 ~~school construction,~~ Charter schools that are operated by a
284 municipality or other public entity, as provided by law, or a
285 private, not-for-profit, s. 501(c)(3) status corporation are
286 eligible for up to a 15-year charter, subject to approval by the
287 district school board, which consent may not unreasonably
288 withheld. A charter lab school is also eligible for a charter
289 for a term of up to 15 years. ~~In addition, to facilitate access~~
290 ~~to long-term financial resources for charter school~~
291 ~~construction, charter schools that are operated by a private,~~
292 ~~not-for-profit, s. 501(c)(3) status corporation are eligible for~~
293 ~~up to a 15-year charter, subject to approval by the district~~
294 ~~school board.~~ Such long-term charters remain subject to annual
295 review and may be terminated during the term of the charter, but
296 only according to ~~the provisions set forth in~~ subsection (8).

297 20. Termination or nonrenewal of the charter pursuant to
298 subsection (8), including termination for failure to make
299 sufficient progress towards attaining the student achievement
300 objectives of the charter.

301 (9) CHARTER SCHOOL REQUIREMENTS.—

302 (n)4. A charter school's charter is automatically
303 terminated if the charter school earns two consecutive grades of
304 "F," after all school grade appeals are final, ~~The sponsor shall~~
305 ~~terminate a charter if the charter school earns two consecutive~~
306 ~~grades of "F" unless:~~

307 a. The charter school is established to turn around the
308 performance of a district public school pursuant to s.
309 1008.33(4)(b)3. Such charter schools shall be governed by s.
310 1008.33;



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

318 c. The state board grants the charter school a waiver of
319 termination. The charter school must request the waiver within
320 15 days after the department's official release of school
321 grades. The state board may waive termination if the charter
322 school demonstrates that the learning gains of its students on
323 statewide assessments are comparable to or better than the
324 learning gains of similarly situated students enrolled in nearby
325 district public schools. The waiver is valid for 1 year and may
326 only be granted once. Charter schools that have been in
327 operation for more than 5 years are not eligible for a waiver
328 under this sub-subparagraph.

329
330 The sponsor shall notify in writing the charter school's
331 governing board, the charter school principal, and the
332 department when a charter is terminated under this subparagraph.
333 A charter terminated under this subparagraph is governed by the
334 requirements of paragraphs (8) (e)-(g) and (9) (o).

335 (o)1. Upon initial notification of nonrenewal, closure, or
336 termination of its charter, a charter school may not expend more
337 than \$10,000 per expenditure without prior written approval from
338 the sponsor unless such expenditure was included within the
339 annual budget submitted to the sponsor pursuant to the charter



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340 contract, is for reasonable attorney fees and costs during the
341 pendency of any hearing or appeal, or is for reasonable fees and
342 costs to conduct an independent audit.

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

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

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

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

359 (10) ELIGIBLE STUDENTS.—

360 (g)1. A student may withdraw from a charter school at any
361 time and enroll in another public school as determined by
362 district school board rule. A charter school must request, but
363 may not require, that the student withdrawing or the parent of
364 the student withdrawing complete a survey and provide
365 information concerning the student's experiences at the charter
366 school and reasons for withdrawal. A charter school must provide
367 in its annual report to its sponsor and the Department of
368 Education the total number of students that leave the charter



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369 school and their reasons for leaving the charter school,
370 including but not limited to, withdrawal, suspension, and
371 dismissal, if known.

372 2. A student may only receive disciplinary action,
373 including but not limited to suspension or dismissal, on the
374 grounds and in the manner specified in the charter school's code
375 of student conduct.

376 Section 2. Subsection (5) of section 1002.331, Florida
377 Statutes, is amended to read:

378 1002.331 High-performing charter schools.—

379 (5) The Commissioner of Education, upon request by a
380 charter school, shall verify that the charter school meets the
381 criteria in subsection (1) and provide a letter to the charter
382 school and the sponsor stating that the charter school is a
383 high-performing charter school pursuant to this section. The
384 commissioner shall annually determine whether a high-performing
385 charter school under subsection (1) continues to meet the
386 criteria in that subsection. Such high-performing charter school
387 shall maintain its high-performing status unless the
388 commissioner determines that the charter school no longer meets
389 the criteria in subsection (1), at which time the commissioner
390 shall send a letter to the charter school and its sponsor
391 providing notification that the charter school has been
392 declassified ~~of its declassification~~ as a high-performing
393 charter school.

394 Section 3. Paragraph (a) of subsection (1) of section
395 1013.62, Florida Statutes, is amended to read:

396 1013.62 Charter schools capital outlay funding.—

397 (1) In each year in which funds are appropriated for



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398 charter school capital outlay purposes, the Commissioner of
399 Education shall allocate the funds among eligible charter
400 schools.

401 (a) To be eligible for a funding allocation, a charter
402 school must:

403 1.a. Have been in operation for 3 or more years;

404 b. Be governed by a governing board established in the
405 state for 3 or more years which operates both charter schools
406 and conversion charter schools within the state;

407 c. Be an expanded feeder chain of a charter school within
408 the same school district that is currently receiving charter
409 school capital outlay funds;

410 d. Have been accredited by the Commission on Schools of the
411 Southern Association of Colleges and Schools; or

412 e. Serve students in facilities that are provided by a
413 business partner for a charter school-in-the-workplace pursuant
414 to s. 1002.33(15)(b).

415 2. For the most recent fiscal year for which an audit is
416 available, have an audit that does not reveal one or more of the
417 following emergency financial conditions: ~~stability for future~~
418 operation as a charter school.

419 a. During that fiscal year, failure to pay short-term loans
420 and failure to timely make bond debt service or other long-term
421 debt payments due to a lack of funds.

422 b. Failure to pay uncontested claims from creditors within
423 90 days after the claim is presented due to a lack of funds.

424 c. Failure to transfer at the appropriate time, due to lack
425 of funds:

426 (I) Taxes withheld on the income of employees; or



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427 (II) Employer and employee contributions for federal social
428 security or any other pension, retirement, or benefit plan of an
429 employee.

430 d. Failure for one pay period to pay, due to lack of funds:

431 (I) Wages and salaries owed to employees; or

432 (II) Retirement benefits owed to former employees.

433 3. Have satisfactory student achievement based on state
434 accountability standards applicable to the charter school.

435 4. Have received final approval from its sponsor pursuant
436 to s. 1002.33 for operation during that fiscal year.

437 5. Serve students in facilities that are not provided by
438 the charter school's sponsor.

439 Section 4. This act shall take effect July 1, 2014.

440

441 ===== T I T L E A M E N D M E N T =====

442 And the title is amended as follows:

443 Delete everything before the enacting clause
444 and insert:

445 A bill to be entitled
446 An act relating to charter schools; amending s.
447 1002.33, F.S.; authorizing a military installation
448 commander of a military installation to apply for a
449 charter school located on the military installation;
450 establishing conditions for the commander and charter
451 school governing board; conforming provisions
452 regarding the appeal process for denial of high-
453 performing charter school applications; authorizing
454 contract disputes to be referred to the Division of
455 Administrative Hearings for summary final order;



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456 removing limitation of access to long-term charters
457 for a private, not-for-profit corporation; clarifying
458 provisions regarding charter terminations; specifying
459 that a charter is automatically terminated when a
460 charter school earns two consecutive grades of "F"
461 after all appeals unless an exception applies;
462 specifying requirements regarding such terminations;
463 providing that a charter school may only discipline
464 students for the grounds and in the manner specified
465 in the code of student conduct; amending s. 1002.331,
466 F.S.; clarifying the commissioner's requirements when
467 a high performing charter school is declassified;
468 amending s. 1013.62, F.S.; requiring that a charter
469 school not have financial emergency conditions on an
470 annual audit in order to qualify for capital outlay
471 funding; providing an effective date.

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473