

1 A bill to be entitled

2 An act relating to charter schools; providing a short  
3 title; providing legislative findings and purpose of  
4 the act; creating part VII of chapter 1002, F.S.;  
5 creating the Florida Charter School Association;  
6 requiring all charter schools to be members of the  
7 association; requiring the Florida Charter School  
8 Alliance to coordinate the placement of teachers and  
9 students of a failed charter school into other charter  
10 schools; providing for appointment and terms of the  
11 board of directors of the association; authorizing  
12 board members to be reimbursed for certain expenses;  
13 requiring the termination of a board member  
14 representing a failed charter school; providing powers  
15 and duties of the association; authorizing the  
16 Department of Education to levy an assessment against  
17 charter schools; providing procedures and requirements  
18 for the assessment; providing that unpaid claimants  
19 shall be paid as soon as funds become available;  
20 prohibiting state funds from being allocated or paid  
21 to the association; authorizing the association to  
22 extend the period during which the association is  
23 obligated for claims that arise; requiring the  
24 association to submit a plan of operation to the  
25 department; requiring charter schools to comply with  
26 the plan of operation; providing requirements for the

27 plan of operation; authorizing the plan of operation  
 28 to delegate certain powers and duties of the  
 29 association to certain corporations, associations, or  
 30 organizations; providing that it is the duty of the  
 31 board of directors to notify the department of certain  
 32 information; authorizing the board of directors to  
 33 request, and requiring the department to complete, an  
 34 examination of certain member charter schools;  
 35 authorizing the board of directors to make reports and  
 36 recommendations; providing that the association is  
 37 subject to examination and regulation by the  
 38 department; requiring the board of directors to submit  
 39 an annual report; providing immunity to specified  
 40 persons and entities for certain actions taken in the  
 41 performance of their enumerated powers and duties;  
 42 providing construction; providing an effective date.

43

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

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46 Section 1. This act may be cited as the "Charter School  
 47 Taxpayer Protection Act."

48 Section 2. The purposes of this act, which the Legislature  
 49 finds are integral elements of the regulation of charter schools  
 50 and vital to the public interest, are to:

51 (1) Protect the interests of students, parents, board  
 52 members, taxpayers, educators, and the public.

53 (2) Provide a mechanism for administering public charter  
 54 school operations, facilitating the payment of certain claims in  
 55 the event of the failure of a charter school, and mitigating the  
 56 effects of failing charter schools.

57 (3) Assist in the detection and prevention of potentially  
 58 dangerous conditions in a charter school and to promptly apply  
 59 appropriate corrective measures.

60 (4) Implement improved methods for rehabilitating charter  
 61 schools, which involve the cooperation and management expertise  
 62 of the charter school industry.

63 (5) Establish the Florida Charter School Association as a  
 64 corporation not for profit to administer the association's  
 65 duties under this act.

66 (6) Establish a system to equitably apportion any  
 67 unavoidable loss.

68 (7) Administer the reassignment of students and teachers  
 69 in the event of the failure of a charter school.

70 (8) Maximize recovery of assets for the benefit of the  
 71 students, parents, board members, taxpayers, educators,  
 72 creditors, and the public.

73 Section 3. Part VII of chapter 1002, Florida Statutes,  
 74 consisting of sections 1002.981 through 1002.988, is created to  
 75 read:

76 PART VII

77 CHARTER SCHOOL TAXPAYER PROTECTION ACT

78 1002.981 Florida Charter School Association; creation.—

79       (1) There is created the Florida Charter School  
 80 Association, which shall be organized under chapter 617 as a  
 81 corporation not for profit. Each charter school in the state  
 82 shall be a member of the association as a condition of the  
 83 charter school's authority to operate in the state, and,  
 84 further, as a condition of such authority, a charter school  
 85 shall agree to reimburse the association for all claim payments  
 86 the association makes on the charter school's behalf if such  
 87 charter school is subsequently rehabilitated. The association  
 88 shall perform its functions under a plan of operation  
 89 established and approved under s. 1002.984 and shall exercise  
 90 its powers through a board of directors established under s.  
 91 1002.982.

92       (2) If a charter school fails, the placement of students  
 93 and teachers among the other member charter schools shall be  
 94 coordinated by the Florida Charter School Alliance with  
 95 oversight by the association.

96       (3) For purposes of administration and assessment, the  
 97 association shall maintain a Florida Charter School Association  
 98 account.

99       1002.982 Board of directors.—

100       (1) The board of directors of the Florida Charter School  
 101 Association shall consist of at least five but not more than  
 102 nine members serving terms as established in the plan of  
 103 operation. The Commissioner of Education shall approve and  
 104 appoint to the board members recommended by the member charter

105 schools. If the commissioner finds that a recommended member  
 106 does not meet the qualifications for service on the board, the  
 107 commissioner shall request the member charter schools to  
 108 recommend another member. Each member shall serve for a 4-year  
 109 term and may be reappointed. Vacancies on the board shall be  
 110 filled for the remaining period of the term in the same manner  
 111 as initial appointments.

112 (2) In appointing members to the board, the commissioner  
 113 shall consider among other things whether all areas of charter  
 114 school operations covered by this part are fairly represented.

115 (3) Members of the board may be reimbursed from the assets  
 116 of the association for expenses incurred by them as members of  
 117 the board of directors.

118 (4) Any board member representing a failed charter school  
 119 shall be terminated as a board member, effective as of the date  
 120 of the entry of the order of revocation of the charter.

121 1002.983 Powers and duties of the association.-

122 (1) The association shall:

123 (a) Be obligated to the extent of the failed charter  
 124 school claims existing before the failure of the charter school  
 125 and arising within 30 days after such failure.

126 (b) In no event be obligated to any claimant in an amount  
 127 in excess of the obligation of the member charter school due to  
 128 the failed charter school from which the claim arises.

129 (c) Be deemed the insurer to the extent of its obligation  
 130 on the covered claims, and, to such extent, shall have all

131 rights, duties, defenses, and obligations of the failed charter  
132 school as if the charter school had not failed. The association  
133 shall not, under any circumstances, be liable for penalties or  
134 interest.

135 (2) The association may:

136 (a) Employ or retain such persons as are necessary to  
137 handle claims and perform other duties of the association.

138 (b) Borrow funds necessary to effect the purposes of this  
139 part in accord with the plan of operation.

140 (c) Sue or be sued, provided that service of process is  
141 made upon the person registered with the Department of State as  
142 agent for the receipt of service of process.

143 (d) Negotiate and become a party to such contracts as are  
144 necessary to carry out the purpose of this part. In connection  
145 with the entering into of such necessary contracts, the  
146 association may agree to such terms and conditions as the  
147 association deems necessary and proper.

148 (3) (a) To the extent necessary to secure the funds for the  
149 account created by s. 1002.981(3) for the payment of covered  
150 claims and to pay the reasonable costs to administer the same,  
151 the department, upon certification of the board of directors,  
152 shall levy an assessment against member charter schools in  
153 proportion to the number of students in each school. Assessments  
154 shall be remitted to and administered by the board of directors  
155 in the manner specified by the approved plan of operation. Each  
156 charter school so assessed shall have at least 30 days' written

157 notice as to the date the assessment is due and payable. An  
 158 assessment levied against a charter school may not exceed in any  
 159 one year more than 2 percent of the charter school's income  
 160 during the calendar year next preceding the date of such  
 161 assessment.

162 (b) If sufficient funds from such assessments, together  
 163 with funds previously raised, are not available in any one year  
 164 to make all the payments or reimbursements then owing to  
 165 claimants, the funds available shall be prorated and the unpaid  
 166 portion shall be paid as soon thereafter as funds become  
 167 available.

168 (c) State funds of any kind may not be allocated or paid  
 169 to the association or to its accounts.

170 (4) The association may extend the time limit specified in  
 171 paragraph (1) (a) by up to an additional 60 days if the board  
 172 determines that such actions are necessary to facilitate the  
 173 bulk assumption of obligations.

174 1002.984 Plan of operation.—

175 (1) (a) The association shall submit to the department a  
 176 proposed plan of operation and any amendments thereto necessary  
 177 or suitable to assure the fair, reasonable, and equitable  
 178 administration of the association. The plan of operation and any  
 179 amendments thereto shall become effective upon approval in  
 180 writing by the department.

181 (b) If the association fails to submit a suitable proposed  
 182 plan of operation by January 1, 2015, or if at any time

183 thereafter the association fails to submit suitable amendments  
184 to the plan, the department shall adopt such rules as are  
185 necessary to administer this part. Such rules shall continue in  
186 force until modified by the department or superseded by a plan  
187 submitted by the association and approved by the department.

188 (2) Member charter schools shall comply with the plan of  
189 operation.

190 (3) The plan of operation shall:

191 (a) Establish the procedures whereby all the powers and  
192 duties of the association under s. 1002.983 will be performed.

193 (b) Establish procedures for handling assets of the  
194 association.

195 (c) Establish the amount and method of reimbursing members  
196 of the board of directors under s. 1002.982.

197 (d) Establish procedures by which claims may be filed with  
198 the association and acceptable forms of proof of covered claims.

199 (e) Establish regular places and times for meetings of the  
200 board of directors.

201 (f) Establish procedures for records to be kept of all  
202 financial transactions of the association, its agents, and the  
203 board of directors.

204 (g) Provide that a member charter school aggrieved by a  
205 final action or decision of the association may appeal to the  
206 department within 30 days after the action or decision.

207 (h) Establish the procedures whereby recommendations for  
208 the board of directors will be submitted to the department.



209 (i) Contain additional provisions necessary or proper for  
 210 execution of the powers and duties of the association.

211 (4) The plan of operation may provide that any powers and  
 212 duties of the association, except those under s. 1002.983(2) (b)  
 213 and (c), are delegated to a corporation, association, or other  
 214 organization which performs or will perform functions similar to  
 215 those of the association or its equivalent. Such a corporation,  
 216 association, or organization shall be reimbursed and paid for  
 217 its performance of any other functions of the association. A  
 218 delegation under this subsection shall take effect only with the  
 219 approval of both the board of directors and the department, and  
 220 may be made only to a corporation, association, or organization  
 221 which extends protection not substantially less favorable and  
 222 effective than that provided by this part.

223 1002.985 Prevention of charter school failures.—To aid in  
 224 the detection and prevention of charter school failures:

225 (1) It shall be the duty of the board of directors, upon  
 226 majority vote, to notify the department of any information  
 227 indicating that a member charter school may be insolvent or in a  
 228 financial condition hazardous to the public.

229 (2) The board of directors may, upon majority vote,  
 230 request that the department order an examination of any member  
 231 charter school that the board in good faith believes may be in a  
 232 financial condition hazardous to the public. Within 30 days  
 233 after receipt of such request, the department shall begin the  
 234 examination. The cost of the examination shall be paid by the

235 association. In no event shall the examination report be  
236 released to the board of directors before its release to the  
237 public. The department shall notify the board of directors when  
238 the examination is completed. The request for an examination  
239 shall be kept on file by the department.

240 (3) The board of directors may, by majority vote, make  
241 reports and recommendations to the department upon any matter  
242 germane to the solvency, liquidation, rehabilitation, or  
243 conservation of any member charter school.

244 (4) The board of directors may, upon majority vote, make  
245 recommendations to the department for the detection and  
246 prevention of charter school failures.

247 1002.986 Examination of the association.—The association  
248 shall be subject to examination and regulation by the  
249 department. The board of directors shall submit, no later than  
250 March 30 of each year, a financial report for the preceding  
251 calendar year in a form approved by the department.

252 1002.987 Immunity.—There shall be no liability on the part  
253 of, and no cause of action of any nature shall arise against,  
254 any member charter school, the association or its agents or  
255 employees, the board of directors, or the department for any  
256 action taken by them in the performance of their powers and  
257 duties under this part. Such immunity shall extend to the  
258 participation in any organization of one or more other state  
259 associations of similar purposes and to any such organization  
260 and its agents or employees.

HB 1265

2014

261           Section 4. This act shall be liberally construed to effect  
262 the purposes of this act.

263           Section 5. This act shall take effect July 1, 2014.