

By: Jackson

H.B. No. 3703

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment, operation, and funding of  
3 open-enrollment charter schools.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 12.101, Education Code, is amended by  
6 amending Subsection (b) and adding Subsection (b-1) to read as  
7 follows:

8 (b) The State Board of Education may grant a charter for an  
9 open-enrollment charter school only to an applicant that meets any  
10 financial, governing, and operational standards adopted by the  
11 commissioner under this subchapter. [~~The State Board of Education  
12 may not grant a total of more than 215 charters for an  
13 open-enrollment charter school.~~]

14 (b-1) A charter holder may establish one or more new  
15 open-enrollment charter school campuses under a charter without  
16 applying for authorization from the State Board of Education if:

17 (1) 75 percent or more of the open-enrollment charter  
18 school campuses operating under the charter are rated as  
19 academically acceptable or higher under Subchapter D, Chapter 39;

20 (2) either no campus operating under the charter has  
21 been rated as academically unacceptable for any two of the three  
22 preceding school years or such a campus has been closed; and

23 (3) the charter holder provides written notice, in the  
24 time, manner, and form provided by commissioner rule, to the State

1 Board of Education and the commissioner of the establishment of any  
2 campus under this subsection.

3 SECTION 2. Section 12.1012, Education Code, is amended by  
4 adding Subdivision (7) to read as follows:

5 (7) "Open-enrollment charter school" means a public  
6 school district operating under a charter granted under this  
7 subchapter to a charter holder.

8 SECTION 3. Section 12.104, Education Code, is amended by  
9 amending Subsection (b) and adding Subsection (e) to read as  
10 follows:

11 (b) An open-enrollment charter school is subject to:

12 (1) a provision of this title establishing a criminal  
13 offense; and

14 (2) a prohibition, restriction, or requirement, as  
15 applicable, imposed by this title or a rule adopted under this  
16 title, relating to:

17 (A) the Public Education Information Management  
18 System (PEIMS) to the extent necessary to monitor compliance with  
19 this subchapter as determined by the commissioner;

20 (B) criminal history records under Subchapter C,  
21 Chapter 22;

22 (C) reading instruments and accelerated reading  
23 instruction programs under Section 28.006;

24 (D) satisfactory performance on assessment  
25 instruments and to accelerated instruction under Section 28.0211;

26 (E) high school graduation under Section 28.025;

27 (F) special education programs under Subchapter

1 A, Chapter 29;

2 (G) bilingual education under Subchapter B,  
3 Chapter 29;

4 (H) prekindergarten programs under Subchapter E,  
5 Chapter 29;

6 (I) extracurricular activities under Section  
7 33.081;

8 (J) discipline management practices or behavior  
9 management techniques under Section 37.0021;

10 (K) health and safety under Chapter 38;

11 (L) public school accountability under  
12 Subchapters B, C, D, and G, Chapter 39, except as provided by  
13 Subsection (e);

14 (M) the requirement under Section 21.006 to  
15 report an educator's misconduct; and

16 (N) intensive programs of instruction under  
17 Section 28.0213.

18 (e) A student may be included in computing the dropout or  
19 completion rate of an open-enrollment charter school for purposes  
20 of Chapter 39 only after the student has attended the school for 85  
21 or more school days.

22 SECTION 4. Subchapter D, Chapter 12, Education Code, is  
23 amended by adding Section 12.1062 to read as follows:

24 Sec. 12.1062. ADDITIONAL FUNDING FOR ACADEMICALLY  
25 ACCEPTABLE SCHOOLS. (a) For each school year that an  
26 open-enrollment charter school is rated academically acceptable  
27 under Subchapter D, Chapter 39, to the extent that money is

1 available that may be used for the purpose, the open-enrollment  
2 charter school is entitled to funding under this section.

3 (b) Based on the amount of money that is available that may  
4 be used for the purpose, the commissioner shall establish the  
5 amount of funds that an open-enrollment charter school will be  
6 provided under this section, except that the amount:

7 (1) may not exceed \$1,000 per student in enrollment;  
8 and

9 (2) to the extent money is available, must be at least  
10 \$500 per student in enrollment.

11 (c) If there is not sufficient money available to pay \$500  
12 per student to each open-enrollment charter school described by  
13 Subsection (a), the amount awarded per student for all  
14 open-enrollment charter schools described by Subsection (a) shall  
15 be reduced by the same amount.

16 (d) Funds awarded under this section may be used only for  
17 open-enrollment charter school operations and facilities.

18 (e) The commissioner shall adopt rules as necessary to  
19 administer this section, including rules to ensure that money  
20 awarded is used only for a purpose authorized by Subsection (d).

21 (f) Section 12.107 applies to funds awarded under this  
22 section.

23 SECTION 5. Section 12.1101, Education Code, is amended to  
24 read as follows:

25 Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION. The  
26 commissioner by rule shall adopt a procedure for providing notice  
27 to the following persons on receipt by the State Board of Education

1 of an application for a charter for an open-enrollment charter  
2 school under Section 12.110 or on receipt by the board and the  
3 commissioner of notice of the establishment of a campus as  
4 authorized under Section 12.101(b-1):

5 (1) the board of trustees of each school district from  
6 which the proposed open-enrollment charter school or campus is  
7 likely to draw students, as determined by the commissioner; and

8 (2) each member of the legislature that represents the  
9 geographic area to be served by the proposed school or campus, as  
10 determined by the commissioner.

11 SECTION 6. Subchapter D, Chapter 12, Education Code, is  
12 amended by adding Sections 12.134 and 12.135 to read as follows:

13 Sec. 12.134. COLOCATION AGREEMENT BETWEEN SCHOOL DISTRICT  
14 AND OPEN-ENROLLMENT CHARTER SCHOOL. (a) This section applies to a  
15 school district that:

16 (1) leases a district facility for the operation of an  
17 open-enrollment charter school to be colocated on a district  
18 campus; and

19 (2) enters into an agreement with the charter school  
20 as provided by Subsection (d).

21 (b) The board of trustees of a school district may elect to  
22 have data regarding the academic performance of students enrolled  
23 in the open-enrollment charter school combined with comparable data  
24 of the colocated district campus in determining the performance of  
25 the campus and the district.

26 (c) The board of trustees of a school district that elects  
27 under Subsection (b) to have academic data combined shall annually

1 file with the agency a copy of the lease and agreement described by  
2 Subsection (a).

3 (d) The agreement between the school district and the  
4 open-enrollment charter school:

5 (1) shall establish terms for sharing instructional or  
6 other specified resources, such as professional development;

7 (2) shall for each year specify factors for  
8 identifying a student who will be served by the charter school in  
9 the leased facilities, which may include:

10 (A) the student's attendance at a specified  
11 district campus or campuses;

12 (B) the student's need for specific academic  
13 services;

14 (C) the student's academic performance in  
15 previous school years; or

16 (D) other objective factors determined by the  
17 district and the charter school; and

18 (3) may prohibit the charter school from enrolling  
19 students at the leased facilities other than those identified under  
20 factors designated in the agreement.

21 Sec. 12.135. EDUCATIONAL SERVICES AGREEMENT BETWEEN SCHOOL  
22 DISTRICT AND OPEN-ENROLLMENT CHARTER SCHOOL. (a) Notwithstanding  
23 Chapter 41 or 42, and in addition to any other funds to which a  
24 school district may be entitled, if the board of trustees of the  
25 district enters into an agreement under this section with an  
26 open-enrollment charter school for the charter school to provide  
27 educational services to a student enrolled in school in the

1 district, the district is entitled to receive the greater of the  
2 following amounts:

3 (1) the amount the charter school would receive under  
4 Section 12.106 if the student were enrolled in the charter school;  
5 or

6 (2) the amount to which the district is entitled under  
7 Chapters 41 and 42 for the student.

8 (b) The board of trustees of a school district that enters  
9 into an agreement described by Subsection (a) with an  
10 open-enrollment charter school may elect to have the state and  
11 federal funds attributable to the students educated by the charter  
12 school paid directly to the charter school. A school district that  
13 makes such an election must make an annual declaration of the  
14 election to the agency in a manner determined by the commissioner.  
15 The district remains responsible for any overallocation or audit  
16 recovery of state or federal funds as determined by the  
17 commissioner.

18 SECTION 7. This Act applies beginning with the 2009-2010  
19 school year.

20 SECTION 8. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2009.