

By: Patrick, Huffman

S.B. No. 1830

A BILL TO BE ENTITLED

AN ACT

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

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

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

(b) The State Board of Education, after thoroughly investigating and evaluating an applicant, may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, curriculum development and implementation, and operational standards adopted by the commissioner under this subchapter. The State Board of Education may not grant ~~[a total of]~~ more than 10 new ~~[215]~~ charters for an open-enrollment charter school each state fiscal year.

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

(1) 90 percent or more of the open-enrollment charter school campuses operating under the charter have been rated as academically acceptable or higher under Subchapter D, Chapter 39, for the two preceding school years;

(2) either no campus operating under the charter has been rated as academically unacceptable for any two of the three

preceding school years or such a campus has been closed;

(3) the charter holder satisfies generally accepted accounting standards of fiscal management;

(4) the charter holder provides written notice, in the time, manner, and form provided by commissioner rule, to the State Board of Education and the commissioner of the establishment of any campus under this subsection; and

(5) not later than the 90th day after the date the charter holder provides written notice under Subdivision (4), the commissioner does not provide written notice to the charter holder disapproving a new campus under this section.

SECTION 2. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1011 to read as follows:

Sec. 12.1011. AUTHORIZATION FOR GRANT OF CHARTERS FOR SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) The State Board of Education may grant under Section 12.101 a charter on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students with disabilities, including students with autism. A charter granted under this section is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101(b).

(b) For purposes of the applicability of state and federal law, including a law prescribing requirements concerning students with disabilities, an open-enrollment charter school described by Subsection (a) is considered the same as any other school for which a charter is granted under Section 12.101.

1 (c) To the fullest extent permitted under federal law, a
2 parent of a student with a disability may choose to enroll the
3 parent's child in an open-enrollment charter school described by
4 Subsection (a) regardless of whether a disproportionate number of
5 the school's students are students with disabilities.

6 (d) This section does not authorize an open-enrollment
7 charter school to discriminate in admissions or in the services
8 provided based on the presence, absence, or nature of an
9 applicant's or student's disability.

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

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

14 (1) a provision of this title establishing a criminal
15 offense; and

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

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

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

24 (C) reading instruments and accelerated reading
25 instruction programs under Section 28.006;

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

- 1 (E) high school graduation under Section 28.025;
2 (F) special education programs under Subchapter
3 A, Chapter 29;
4 (G) bilingual education under Subchapter B,
5 Chapter 29;
6 (H) prekindergarten programs under Subchapter E,
7 Chapter 29;
8 (I) extracurricular activities under Section
9 33.081;
10 (J) discipline management practices or behavior
11 management techniques under Section 37.0021;
12 (K) health and safety under Chapter 38;
13 (L) public school accountability under
14 Subchapters B, C, D, and G, Chapter 39, except as provided by
15 Subsection (e);
16 (M) the requirement under Section 21.006 to
17 report an educator's misconduct; and
18 (N) intensive programs of instruction under
19 Section 28.0213.

20 (e) In computing dropout and completion rates for an
21 open-enrollment charter school, the commissioner may:

22 (1) exclude students who are ordered by a court to
23 attend a high school equivalency certificate program but who have
24 not yet earned a high school equivalency certificate; and

25 (2) exclude students who were previously reported to
26 the state as dropouts.

27 SECTION 4. Section 12.1101, Education Code, is amended to

read as follows:

Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION. The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the State Board of Education of an application for a charter for an open-enrollment charter school under Section 12.110 or on receipt by the board and the commissioner of notice of the establishment of a campus as authorized under Section 12.101(b-1):

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

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

SECTION 5. Subsection (a), Section 12.111, Education Code, is amended to read as follows:

(a) Each charter granted under this subchapter must:

(1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;

(2) specify the period for which the charter or, consistent with Section 12.116(b-1), any charter renewal is valid;

(3) provide that continuation or renewal of the charter is contingent on the status of the charter as provided by Section 12.116(b-1) ~~[acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the~~

1 ~~charter, by a deadline or at intervals specified by the charter];~~

2 (4) ~~[establish the level of student performance that~~
3 ~~is considered acceptable for purposes of Subdivision (3),~~

4 ~~[(5)]~~ specify any basis, in addition to a basis
5 specified by this subchapter, on which the charter may be placed on
6 probation or revoked ~~[or on which renewal of the charter may be~~
7 ~~denied];~~

8 (5) ~~[(6)]~~ prohibit discrimination in admission policy
9 on the basis of sex, national origin, ethnicity, religion,
10 disability, academic, artistic, or athletic ability, or the
11 district the child would otherwise attend in accordance with this
12 code, although the charter may:

13 (A) provide for the exclusion of a student who
14 has a documented history of a criminal offense, a juvenile court
15 adjudication, or discipline problems under Subchapter A, Chapter
16 37; and

17 (B) provide for an admission policy that requires
18 a student to demonstrate artistic ability if the school specializes
19 in performing arts;

20 (6) ~~[(7)]~~ specify the grade levels to be offered;

21 (7) ~~[(8)]~~ describe the governing structure of the
22 program, including:

23 (A) the officer positions designated;

24 (B) the manner in which officers are selected and
25 removed from office;

26 (C) the manner in which members of the governing
27 body of the school are selected and removed from office;

(D) the manner in which vacancies on that governing body are filled;

(E) the term for which members of that governing body serve; and

(F) whether the terms are to be staggered;

(8) [~~(9)~~] specify the powers or duties of the governing body of the school that the governing body may delegate to an officer;

(9) [~~(10)~~] specify the manner in which the school will distribute to parents information related to the qualifications of each professional employee of the program, including any professional or educational degree held by each employee, a statement of any certification under Subchapter B, Chapter 21, held by each employee, and any relevant experience of each employee;

(10) [~~(11)~~] describe the process by which the person providing the program will adopt an annual budget;

(11) [~~(12)~~] describe the manner in which an annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the person providing the program will provide information necessary for the school district in which the program is located to participate, as required by this code or by State Board of Education rule, in the Public Education Information Management System (PEIMS);

(12) [~~(13)~~] describe the facilities to be used;

(13) [~~(14)~~] describe the geographical area served by the program; and

(14) [~~(15)~~] specify any type of enrollment criteria to

be used.

SECTION 6. Section 12.115, Education Code, is amended to read as follows:

Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION[~~, OR DENIAL OF RENEWAL~~]. (a) The commissioner may modify, place on probation, or revoke[~~, or deny renewal of~~] the charter of an open-enrollment charter school if the commissioner determines that the charter holder:

(1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, or welfare of the students enrolled at the school; or

(4) failed to comply with this subchapter or another applicable law or rule.

(b) The action the commissioner takes under Subsection (a) shall be based on:

(1) the best interest of the school's students;

(2) [✓] the severity of the violation[✓] and any previous violation the school has committed; and

(3) the accreditation status of the school under Section 39.072.

SECTION 7. Section 12.116, Education Code, is amended by adding Subsections (a-1) and (b-1) and amending Subsection (b) to read as follows:

1 (a-1) The commissioner shall revoke the charter of an
2 open-enrollment charter school in accordance with the procedure
3 adopted under Subsection (a) if, after all information required for
4 determining a performance rating has been considered, the
5 commissioner determines that the school is insolvent as a result of
6 recovery of overallocated state funds under Section 42.258(a).

7 (b) The commissioner shall revoke the charter of an
8 open-enrollment charter school without a hearing if each campus
9 operated under the school's charter has been ordered closed under
10 Section 39.1324(d), (e), or (f) [~~procedure adopted under Subsection~~
11 ~~(a) must provide an opportunity for a hearing to the charter holder~~
12 ~~and to parents and guardians of students in the school. A hearing~~
13 ~~under this subsection must be held at the facility at which the~~
14 ~~program is operated]~~.

15 (b-1) The procedure adopted under Subsection (a) for
16 denying renewal of the charter of an open-enrollment charter school
17 must provide that the charter automatically renews unless the
18 school's charter is revoked under Subchapter G, Chapter 39, before
19 the expiration of a charter term. The term for which a charter is
20 renewed shall not be less than 10 years.

21 SECTION 8. Subsection (a), Section 12.118, Education Code,
22 is amended to read as follows:

23 (a) The commissioner shall designate an impartial
24 organization with experience in evaluating school choice programs
25 to conduct, under the supervision of the commissioner, an annual
26 evaluation of open-enrollment charter schools.

27 SECTION 9. Subsection (c), Section 12.119, Education Code,

is amended to read as follows:

(c) On request, the State Board of Education shall provide the information required by this section and Section 12.111(a)(7) [~~12.111(8)~~] to a member of the public. The board may charge a reasonable fee to cover the board's cost in providing the information.

SECTION 10. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.134 and 12.135 to read as follows:

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

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

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

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

(c) The board of trustees of a school district that elects under Subsection (b) to have academic data combined shall annually file with the agency a copy of the lease and agreement described by Subsection (a).

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

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

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

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

8 (B) the student's need for specific academic
9 services;

10 (C) the student's academic performance in
11 previous school years; or

12 (D) other objective factors determined by the
13 district and the charter school;

14 (3) may prohibit the charter school from enrolling
15 students at the leased facilities other than those identified under
16 factors designated in the agreement; and

17 (4) shall require the district and the charter school
18 to adopt measures, as required by commissioner rule, such as using
19 different numerical codes for reporting information through the
20 Public Education Information Management System (PEIMS), so that
21 data remains identifiable as that of the district or of the school,
22 as applicable.

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

1 open-enrollment charter school for the charter school to provide
2 educational services to a student enrolled in school in the
3 district, the district is entitled to receive the greater of the
4 following amounts:

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

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

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

20 SECTION 11. Sections 39.202 and 39.203, Education Code, are
21 amended to read as follows:

22 Sec. 39.202. DEVELOPMENT AND IMPLEMENTATION. (a) The
23 commissioner shall, in consultation with the comptroller, develop
24 and implement a financial accountability rating system for school
25 districts and open-enrollment charter schools in this state that:

26 (1) distinguishes among school districts and
27 open-enrollment charter schools based on levels of financial

1 performance; and

2 (2) includes procedures to:

3 (A) provide additional transparency to public
4 education finance; and

5 (B) enable the commissioner and school district
6 and open-enrollment charter school administrators to provide
7 meaningful financial oversight and improvement.

8 (b) The system must include uniform indicators adopted by
9 the commissioner by which to measure a district's or
10 open-enrollment charter school's financial management performance.

11 Sec. 39.203. REPORTING. (a) The commissioner shall
12 develop, as part of the system, a reporting procedure under which:

13 (1) each school district and open-enrollment charter
14 school is required to prepare and distribute an annual financial
15 management report; and

16 (2) the public is provided an opportunity to comment
17 on the report at a hearing.

18 (b) The annual financial management report must include:

19 (1) a description of the district's or school's
20 financial management performance based on a comparison, provided by
21 the agency, of the district's or school's performance on the
22 indicators adopted under Section 39.202(b) to:

23 (A) state-established standards; and

24 (B) the district's or school's previous
25 performance on the indicators; and

26 (2) any descriptive information required by the
27 commissioner.

(c) The report may include:

(1) information concerning, if applicable, the district's or school's:

(A) financial allocations;

(B) tax collections;

(C) financial strength;

(D) operating cost management;

(E) personnel management;

(F) debt management;

(G) facility acquisition and construction management;

(H) cash management;

(I) budgetary planning;

(J) overall business management;

(K) compliance with rules; and

(L) data quality; and

(2) any other information the board of trustees determines to be necessary or useful.

(d) The board of trustees of each school district and the governing body of each open-enrollment charter school shall hold a public hearing on the report. The board shall give notice of the hearing to, as applicable, owners of real property in the district and to parents of district students or to owners of real property in the district in which the open-enrollment charter school is located and to the parents of school students. In addition to other notice required by law, notice of the hearing must be provided:

(1) to a newspaper of general circulation in the

1 district; and

2 (2) through electronic mail to media serving the
3 district.

4 (e) After the hearing, the report shall be disseminated in
5 the district or in the district in which the open-enrollment
6 charter school is located in the manner prescribed by the
7 commissioner.

8 SECTION 12. Subsection (b), Section 12.113, Education Code
9 is repealed.

10 SECTION 13. This Act applies beginning with the 2009-2010
11 school year.

12 SECTION 14. This Act does not make an appropriation. This
13 Act takes effect only if a specific appropriation for the
14 implementation of the Act is provided in a general appropriations
15 act of the 81st Legislature.

16 SECTION 15. Except as provided by Section 14 of this Act,
17 this Act takes effect immediately if it receives a vote of
18 two-thirds of all the members elected to each house, as provided by
19 Section 39, Article III, Texas Constitution. If this Act does not
20 receive the vote necessary for immediate effect, this Act takes
21 effect September 1, 2009, except as provided by Section 14 of this
22 Act.