

By: Patrick, et al.

S.B. No. 1830

Substitute the following for S.B. No. 1830:

By: Jackson

C.S.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. Subsection (b), Section 12.101, Education Code, is amended 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:

(1) a total of more than 275 [215] charters for an open-enrollment charter school; or

(2) more than 15 new charters in a state fiscal year.

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

1 under this section is included for purposes of the limits on the
2 number of open-enrollment charter schools imposed by Section
3 12.101(b).

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

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

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

18 (e) Each educator, including a person performing the duties
19 of a superintendent, employed or under contract to serve on the
20 instructional or administrative staff of an open-enrollment
21 charter school described by Subsection (a) must hold the
22 appropriate certificate, as determined in accordance with State
23 Board for Educator Certification rule, to serve students with a
24 disability of the same type as a disability of students enrolled in
25 the school.

26 (f) The commissioner and the State Board for Educator
27 Certification shall adopt rules as necessary to administer this

1 section.

2 SECTION 3. Section 12.106, Education Code, is amended by
3 amending Subsection (c) and adding Subsections (d), (e), (f), and
4 (g) to read as follows:

5 (c) The commissioner shall [~~may~~] adopt rules to provide and
6 account for state funding of open-enrollment charter schools under
7 this section. A rule adopted under this section may be similar to a
8 provision of this code that is not similar to Section 12.104(b) if
9 the commissioner determines that the rule is related to financing
10 of open-enrollment charter schools and is necessary or prudent to
11 provide or account for state funds.

12 (d) A charter holder is entitled to receive funding under
13 this section for an open-enrollment charter school only if the
14 charter holder:

15 (1) provides information for the Public Education
16 Information Management System (PEIMS) as required by this chapter
17 or by commissioner rule;

18 (2) submits to the commissioner appropriate fiscal and
19 financial records as required by this chapter or by commissioner
20 rule; and

21 (3) receives an unqualified opinion in the most recent
22 independent auditor's report of the school's finances.

23 (e) The commissioner shall suspend the funding of a charter
24 holder that fails to comply with a rule adopted under Subsection (c)
25 until the commissioner determines that the charter holder:

26 (1) is in compliance or has cured any noncompliance;
27 and

1 (2) has adopted adequate procedures to prevent future
2 noncompliance.

3 (f) The rules the commissioner adopts under Subsection (c)
4 must require the commissioner to provide written notice to a
5 charter holder before the suspension of funding under Subsection
6 (e). The written notice must:

7 (1) notify the charter holder that the charter
8 holder's funding may be suspended;

9 (2) specify the reason for which the funding may be
10 suspended, including an explanation of any noncompliance by the
11 charter holder with a specified rule adopted under Subsection (c);

12 (3) inform the charter holder that the charter holder
13 has 30 calendar days after the date on which the charter holder
14 receives the notice to demonstrate compliance or to cure any
15 noncompliance before the charter holder's funding is suspended by
16 the commissioner; and

17 (4) contain any other information the commissioner
18 determines necessary.

19 (g) The commissioner may not suspend the funding of a
20 charter holder under this section until the period specified by
21 Subsection (f) has expired.

22 SECTION 4. Subsection (a), Section 12.111, Education Code,
23 is amended to read as follows:

24 (a) Each charter granted under this subchapter must:

25 (1) describe the educational program to be offered,
26 which must include the required curriculum as provided by Section
27 28.002;

1 (2) ~~[specify the period for which the charter or any~~
2 ~~charter renewal is valid;~~

3 ~~[(3)]~~ provide that continuation ~~[or renewal]~~ of the
4 charter is contingent on acceptable ~~[student]~~ performance as
5 determined ~~[on assessment instruments adopted]~~ under ~~[Subchapter~~
6 ~~B,]~~ Chapter 39~~, and on compliance with any accountability~~
7 ~~provision specified by the charter, by a deadline or at intervals~~
8 ~~specified by the charter];~~

9 (3) ~~[(4)]~~ establish the level of student performance
10 ~~that is considered acceptable for purposes of Subdivision (3);~~

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

15 (4) ~~[(6)]~~ prohibit discrimination in admission policy
16 on the basis of sex, national origin, ethnicity, religion,
17 disability, academic, artistic, or athletic ability, or the
18 district the child would otherwise attend in accordance with this
19 code, although the charter may:

20 (A) provide for the exclusion of a student who
21 has a documented history of a criminal offense, a juvenile court
22 adjudication, or discipline problems under Subchapter A, Chapter
23 37; and

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

27 (5) ~~[(7)]~~ specify the grade levels to be offered;

1 (6) [~~(8)~~] describe the governing structure of the
2 program, including:

3 (A) the officer positions designated;

4 (B) the manner in which officers are selected and
5 removed from office;

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

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

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

12 (F) whether the terms are to be staggered;

13 (7) [~~(9)~~] specify the powers or duties of the
14 governing body of the school that the governing body may delegate to
15 an officer;

16 (8) [~~(10)~~] specify the manner in which the school will
17 distribute to parents information related to the qualifications of
18 each professional employee of the program, including any
19 professional or educational degree held by each employee, a
20 statement of any certification under Subchapter B, Chapter 21, held
21 by each employee, and any relevant experience of each employee;

22 (9) [~~(11)~~] describe the process by which the person
23 providing the program will adopt an annual budget;

24 (10) [~~(12)~~] describe the manner in which an annual
25 audit of the financial and programmatic operations of the program
26 is to be conducted, including the manner in which the person
27 providing the program will provide information necessary for the

1 school district in which the program is located to participate, as
2 required by this code or by State Board of Education rule, in the
3 Public Education Information Management System (PEIMS);

4 (11) [~~(13)~~] describe the facilities to be used;

5 (12) [~~(14)~~] describe the geographical area served by
6 the program; and

7 (13) [~~(15)~~] specify any type of enrollment criteria to
8 be used.

9 SECTION 5. Section 12.115, Education Code, is amended to
10 read as follows:

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

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

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

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

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

25 (b) The action the commissioner takes under Subsection (a)
26 shall be based on the best interest of the school's students, the
27 severity of the violation, and any previous violation the school

1 has committed. Any action the commissioner takes under Chapter 39
2 concerning an open-enrollment charter school shall be taken in
3 accordance with that chapter.

4 SECTION 6. Section 12.116, Education Code, is amended to
5 read as follows:

6 Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON
7 PROBATION, OR REVOCATION; AUTOMATIC RENEWAL; CLOSURE UNDER CHAPTER
8 39 [~~, OR DENIAL OF RENEWAL~~]. (a) The commissioner shall adopt a
9 procedure to be used for modifying, placing on probation, or
10 revoking[~~, or denying renewal of~~] the charter of an open-enrollment
11 charter school.

12 (a-1) The commissioner shall close an open-enrollment
13 charter school under Chapter 39 if, after all information required
14 for determining a performance rating under the financial
15 accountability rating system under Subchapter I, Chapter 39, has
16 been considered, the commissioner determines that the school is
17 insolvent as defined by commissioner rule.

18 (b) The commissioner shall revoke the charter of an
19 open-enrollment charter school without a hearing if each campus
20 operated under the school's charter has been ordered closed under
21 Chapter 39 [~~procedure adopted under Subsection (a) must provide an~~
22 ~~opportunity for a hearing to the charter holder and to parents and~~
23 ~~guardians of students in the school. A hearing under this~~
24 ~~subsection must be held at the facility at which the program is~~
25 ~~operated~~].

26 (b-1) Except as provided by Subsection (b), the procedure
27 adopted under Subsection (a) for denying, revoking, or modifying

1 the charter of an open-enrollment charter school must provide for a
2 hearing on the issue to be held in the county in which the school is
3 located.

4 (c) Chapter 2001, Government Code, applies ~~[does not apply]~~
5 to a hearing that is related to a modification, placement on
6 probation, or revocation~~[, or denial of renewal]~~ under this
7 subchapter.

8 SECTION 7. The heading to Section 12.1161, Education Code,
9 is amended to read as follows:

10 Sec. 12.1161. EFFECT OF REVOCATION~~[, DENIAL OF RENEWAL,]~~ OR
11 SURRENDER OF CHARTER.

12 SECTION 8. Subsection (a), Section 12.1161, Education Code,
13 is amended to read as follows:

14 (a) If ~~[Except as provided by Subsection (b), if]~~ the
15 commissioner revokes ~~[or denies the renewal of]~~ a charter of an
16 open-enrollment charter school, or if an open-enrollment charter
17 school surrenders its charter, the school may not:

18 (1) continue to operate under this subchapter; or

19 (2) receive state funds under this subchapter.

20 SECTION 9. Subsection (a), Section 12.1164, Education Code,
21 is amended to read as follows:

22 (a) The commissioner must notify the Teacher Retirement
23 System of Texas in writing of the revocation~~[, denial of renewal,]~~
24 or surrender of a charter under this subchapter not later than the
25 10th business day after the date of the event.

26 SECTION 10. Subsection (a), Section 12.118, Education Code,
27 is amended to read as follows:

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

5 SECTION 11. Subsection (c), Section 12.119, Education Code,
6 is amended to read as follows:

7 (c) On request, the State Board of Education shall provide
8 the information required by this section and Section 12.111(a)(6)
9 [~~12.111(8)~~] to a member of the public. The board may charge a
10 reasonable fee to cover the board's cost in providing the
11 information.

12 SECTION 12. The heading to Subchapter E, Chapter 12,
13 Education Code, is amended to read as follows:

14 SUBCHAPTER E. COLLEGE OR UNIVERSITY OR JUNIOR COLLEGE
15 CHARTER SCHOOL

16 SECTION 13. Sections 12.151, 12.152, 12.154, and 12.155,
17 Education Code, are amended to read as follows:

18 Sec. 12.151. DEFINITIONS [~~DEFINITION~~]. In this
19 subchapter, "public junior college" and "public senior college or
20 university" have [~~has~~] the meanings [~~meaning~~] assigned by Section
21 61.003.

22 Sec. 12.152. AUTHORIZATION. (a) In accordance with this
23 subchapter and Subchapter D, the State Board of Education may grant
24 a charter on the application of:

25 (1) a public senior college or university for an
26 open-enrollment charter school to operate on the campus of the
27 public senior college or university or in the same county in which

1 the campus of the public senior college or university is located; or
2 (2) a public junior college for an open-enrollment
3 charter school to operate on the campus of the public junior college
4 or in the same county in which the campus of the public junior
5 college is located.

6 Sec. 12.154. CONTENT. (a) Notwithstanding Section
7 12.110(d), the State Board of Education may grant a charter under
8 this subchapter to a public senior college or university only if the
9 following criteria are satisfied in the public senior college's or
10 university's application, as determined by the State Board of
11 Education:

12 (1) the college or university charter school's
13 educational program must include innovative teaching methods;

14 (2) the college or university charter school's
15 educational program must be implemented under the direct
16 supervision of a member of the teaching or research faculty of the
17 public senior college or university;

18 (3) the faculty member supervising the college or
19 university charter school's educational program must have
20 substantial experience and expertise in education research,
21 teacher education, classroom instruction, or educational
22 administration;

23 (4) the college or university charter school's
24 educational program must be designed to meet specific goals
25 described in the charter, including improving student performance,
26 and each aspect of the program must be directed toward the
27 attainment of the goals;

1 (5) the attainment of the college or university
2 charter school's educational program goals must be measured using
3 specific, objective standards set forth in the charter, including
4 assessment methods and a time frame; and

5 (6) the financial operations of the college or
6 university charter school must be supervised by the business office
7 of the public senior college or university.

8 (b) Notwithstanding Section 12.110(d), the State Board of
9 Education may grant a charter under this subchapter to a public
10 junior college only if the following criteria are satisfied in the
11 public junior college's application, as determined by the State
12 Board of Education:

13 (1) the junior college charter school's educational
14 program must be implemented under the direct supervision of a
15 member of the faculty of the public junior college;

16 (2) the faculty member supervising the junior college
17 charter school's educational program must have substantial
18 experience and expertise in teacher education, classroom
19 instruction, or educational administration;

20 (3) the junior college charter school's educational
21 program must be designed to meet specific goals described in the
22 charter, such as dropout recovery, and each aspect of the program
23 must be directed toward the attainment of the goals;

24 (4) the attainment of the junior college charter
25 school's educational program goals must be measured using specific,
26 objective standards set forth in the charter, including assessment
27 methods and a time frame; and

1 (5) the financial operations of the junior college
2 charter school must be supervised by the business office of the
3 junior college.

4 Sec. 12.155. SCHOOL NAME. The name of a college or
5 university charter school or junior college charter school must
6 include the name of the public senior college or university or
7 public junior college, as applicable, operating the school.

8 SECTION 14. Subsection (a), Section 12.156, Education Code,
9 is amended to read as follows:

10 (a) Except as otherwise provided by this subchapter,
11 Subchapter D applies to a college or university charter school or
12 junior college charter school as though the college or university
13 charter school or junior college charter school, as applicable,
14 were granted a charter under that subchapter.

15 SECTION 15. Section 39.1321, Education Code, is amended by
16 amending Subsection (d) and adding Subsection (e) to read as
17 follows:

18 (d) If sanctions are imposed on an open-enrollment charter
19 school under the procedures provided by this chapter, a charter
20 school is not entitled to an additional hearing relating to the
21 modification, placement on probation, or revocation[~~, or denial of~~
22 ~~renewal~~] of a charter as provided by Subchapter D, Chapter 12.

23 (e) Notwithstanding any other provision of this subchapter,
24 the commissioner shall order closure of an open-enrollment charter
25 school campus that is considered an academically unacceptable
26 campus for three consecutive school years, except that the
27 commissioner may waive that requirement if the commissioner

1 determines that, on the basis of significant improvement in student
2 performance over the preceding two school years, the campus is
3 likely to be rated as academically acceptable for the following
4 school year.

5 SECTION 16. Sections 39.202 and 39.203, Education Code, are
6 amended to read as follows:

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

11 (1) distinguishes among school districts and
12 open-enrollment charter schools based on levels of financial
13 performance; and

14 (2) includes procedures to:

15 (A) provide additional transparency to public
16 education finance; and

17 (B) enable the commissioner and school district
18 and open-enrollment charter school administrators to provide
19 meaningful financial oversight and improvement.

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

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

25 (1) each school district and open-enrollment charter
26 school is required to prepare and distribute an annual financial
27 management report; and

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

(b) The annual financial management report must include:

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

(A) state-established standards; and

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

(2) any descriptive information required by the 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 district; and

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

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

SECTION 17. The following provisions of the Education Code are repealed:

(1) Subsection (b), Section 12.113; and

(2) Subsection (b), Section 12.1161.

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

SECTION 19. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the

1 implementation of the Act is provided in a general appropriations
2 act of the 81st Legislature.

3 SECTION 20. Except as provided by Section 19 of this Act,
4 this Act takes effect immediately if it receives a vote of
5 two-thirds of all the members elected to each house, as provided by
6 Section 39, Article III, Texas Constitution. If this Act does not
7 receive the vote necessary for immediate effect, this Act takes
8 effect September 1, 2009, except as provided by Section 19 of this
9 Act.