

Amend CSHB 6 (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The heading to Section 12.101, Education Code, is amended to read as follows:

Sec. 12.101. AUTHORIZATION FOR LICENSE.

SECTION \_\_\_\_\_. Section 12.101, Education Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e) and (f) to read as follows:

(a) In accordance with this subchapter, the State Board of Education may issue [~~grant~~] a license [~~charter~~] on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or

(4) a governmental entity.

(b) The State Board of Education, after thoroughly investigating and evaluating an applicant, may issue [~~grant~~] a license [~~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. In a state fiscal year, the [~~The~~] State Board of Education may not issue [~~grant a total of~~] more than 10 new licenses [~~215 charters~~] for an open-enrollment charter school plus a number of licenses equal to any number of charters for an open-enrollment charter school revoked or surrendered during the preceding state fiscal year.

(d) An educator employed by a school district before the effective date of a license [~~charter~~] for an open-enrollment charter school operated at a school district facility may not be

transferred to or employed by the open-enrollment charter school over the educator's objection.

(e) A license holder is subject to any law applicable to a charter holder.

(f) The commissioner shall adopt rules for the form of a license, the basis and a procedure for modification or revocation of a license, and any other rules necessary for the issuance and administration of licenses under this subchapter. A rule adopted under this subsection must, to the greatest extent practicable, be consistent with a provision of this subchapter or a rule adopted under this subchapter for the same purpose as applicable to a charter.

SECTION \_\_\_\_\_. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1011 and 12.10111 to read as follows:

Sec. 12.1011. AUTHORIZATION FOR ISSUANCE OF LICENSES FOR SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) The State Board of Education may issue under Section 12.101 a license on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students with disabilities, including students with autism. The State Board of Education may not issue more than two new licenses for an open-enrollment charter school under this section each state fiscal year. A license issued under this section is not considered for purposes of the limit on the number of licenses 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 license or charter is issued under this subchapter.

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

(d) This section does not authorize an open-enrollment charter school to discriminate in admissions or in the services

provided based on the presence, absence, or nature of an applicant's or student's disability.

Sec. 12.10111. AUTHORIZATION FOR CHARTER. (a) The State Board of Education shall grant a charter for an open-enrollment charter school to a license holder under Section 12.101 if:

(1) the open-enrollment charter school for which the license has been issued has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the preceding three school years;

(2) no campus operating under the license has been assigned an unacceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the three preceding school years or such a campus has been closed; and

(3) the license holder satisfies standards of financial solvency and financial accountability established by the commissioner under Subchapter D, Chapter 39.

(b) Notwithstanding Section 12.101 and in accordance with Section 12.110, the State Board of Education may grant a charter for an open-enrollment charter school to an applicant for a charter that:

(1) is an entity described by Section 12.101(a)(3) that has operated one or more charter schools in another state and, as determined by the commissioner in accordance with commissioner rule, has achieved high performance under federal accountability and other appropriate academic and financial criteria, including at a minimum having achieved adequate yearly progress in accordance with federal law for the preceding three school years; or

(2) is an entity that has operated one or more charter schools established under Subchapter C, D, or E and, as determined by the commissioner in accordance with commissioner rule, has performed well under appropriate academic and financial criteria.

(c) A charter for an open-enrollment charter school granted under Subsection (b)(1) is considered a license for purposes of the limit on the number of licenses imposed by Section 12.101(b).

(d) A charter holder may establish one or more new open-enrollment charter school campuses under a charter without applying for authorization if:

(1) each open-enrollment charter school campus operating under the charter has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for the two preceding school years;

(2) the charter holder satisfies standards of financial solvency and financial accountability established by commissioner rule under Subchapter D, Chapter 39;

(3) 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

(4) not later than the 90th day after the date the charter holder provides written notice under Subdivision (3), the commissioner does not provide written notice to the charter holder disapproving a new campus under this section.

(e) For purposes of Subsection (d), an open-enrollment charter school campus rated as academically acceptable or higher under Subchapter D, Chapter 39, as that subchapter existed January 1, 2009, for the 2009-2010 or 2010-2011 school year is considered to have been assigned an acceptable performance rating for the applicable school year. This subsection expires January 1, 2015.

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

(7) "License holder" means the entity to which a license is granted under this subchapter.

SECTION \_\_\_\_\_. Section 12.1056, Education Code, is amended to read as follows:

Sec. 12.1056. IMMUNITY [~~FROM LIABILITY~~]. (a) In matters related to operation of an open-enrollment charter school, an open-enrollment charter school is immune [~~from liability~~] to the same extent as a school district, and its employees and volunteers are immune [~~from liability~~] to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune [~~from liability~~] to the same extent as a school district trustee.

(b) An open-enrollment charter school is a governmental unit as defined by Section 101.001, Civil Practice and Remedies

Code, and is subject to liability only as provided by Chapter 101, Civil Practice and Remedies Code, and only in the manner that liability is provided by that chapter for a school district.

(c) An open-enrollment charter school is a local government as defined by Section 102.001, Civil Practice and Remedies Code, and a payment on a tort claim must comply with Chapter 102, Civil Practice and Remedies Code.

(d) An open-enrollment charter school is a local governmental entity as defined by Section 271.151, Local Government Code, and is subject to liability on a contract as provided by Subchapter I, Chapter 271, Local Government Code, and only in the manner that liability is provided by that subchapter for a school district.

SECTION \_\_\_\_\_. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1058 to read as follows:

Sec. 12.1058. APPLICABILITY OF OTHER LAWS. (a) An open-enrollment charter school is considered to be:

(1) a local government for purposes of Chapter 791, Government Code;

(2) a local government for purposes of Chapter 2259, Government Code, except that an open-enrollment charter school may not issue public securities as provided by Section 2259.031(b), Government Code; and

(3) a political subdivision for purposes of Chapter 172, Local Government Code.

(b) An open-enrollment charter school may elect to extend workers' compensation benefits to employees of the school through any method available to a political subdivision under Chapter 504, Labor Code, except that an open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, may not provide workers' compensation medical benefits to injured employees in the manner described by Section 504.053(b)(2), Labor Code. An open-enrollment charter school that elects to extend workers' compensation benefits as permitted under this section is considered to be a political subdivision for all purposes under Chapter 504, Labor Code. An open-enrollment charter school that self-insures either individually or collectively under

Chapter 504, Labor Code, is considered to be an insurance carrier for purposes of Subtitle A, Title 5, Labor Code.

SECTION \_\_\_\_\_. Section 12.110, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (e) to read as follows:

(a) The State Board of Education shall adopt:

(1) an application form and a procedure that must be used to apply for a license [~~charter~~] for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to issue [~~grant~~] a license [~~charter~~].

(a-1) The State Board of Education shall adopt:

(1) an application form and a procedure that must be used by an applicant described by Section 12.10111(b)(1) or (2) to apply for a charter for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to grant a charter.

(b) The application forms under Subsections (a) and (a-1) [~~form~~] must provide for including the information required under Section 12.111 [~~to be contained in a charter~~].

(c) As part of the application procedure, the board may require a petition supporting a license or charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(e) The commissioner by rule may establish a fee for applying for a license or charter for an open-enrollment charter school. A fee established under this subsection must be sufficient to cover the agency's administrative costs for the application process, including the costs of investigating the applicant.

SECTION \_\_\_\_\_. Section 12.1101, Education Code, is amended to read as follows:

Sec. 12.1101. NOTIFICATION OF LICENSE OR CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. 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 license or 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 12.10111(d):

(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 \_\_\_\_\_. Section 12.111, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (c) to read as follows:

(a) Except as provided by Subsection (a-1), each license issued or ~~[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 charter, by a deadline or at intervals specified by the charter]~~;

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

~~[(5)]~~ specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked or on which an alternative to revoking the charter, as described by Section 12.115(a-1), may be used ~~[renewal of the charter may be denied]~~;

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

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

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

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

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

(A) the officer positions designated;

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

(C) the manner in which members of the governing 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.

(a-1) A license issued under this subchapter is not required to comply with Subsection (a)(2), (3), or (4).

(b) A license holder or charter holder [~~of an open-enrollment charter school~~] shall consider including in the school's license or charter, as applicable, a requirement that the school develop and administer personal graduation plans under Section 28.0212.

(c) The enrollment of a student with a disability, including autism, is not considered for purposes of any maximum student enrollment described by the charter.

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

Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION; ALTERNATIVES TO REVOCATION [~~, OR DENIAL OF RENEWAL~~]. (a) The commissioner shall [~~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.

(a-1) Based on a determination described by Subsection (a) concerning the charter holder, as an alternative to revoking the charter of an open-enrollment charter school, the commissioner may:

(1) reconstitute the governing body of the charter

holder; or

(2) assign operations of a school campus to a different charter holder.

(b) The action the commissioner takes under Subsection (a) or (a-1) shall be based on:

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

(2) [7] the severity of the violation[7] and any previous violation the school has committed; and

(3) the accreditation status of the school under Subchapter C, Chapter 39.

SECTION \_\_\_\_\_. Section 12.116, Education Code, is amended to read as follows:

Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, ALTERNATIVE TO REVOCATION, OR DENIAL OF RENEWAL. (a) The commissioner shall adopt a procedure ~~[to be used]~~ for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school or for using an alternative to revocation as described by Section 12.115(a-1).

~~[(b)]~~ The procedure ~~[adopted under Subsection (a)]~~ must, except as provided by Subsection (b), provide an opportunity for a hearing to the charter holder and to parents and guardians of students enrolled in the school. A hearing under this subsection must be held in the county in which the school is located ~~[at the facility at which the program is operated]~~.

(a-1) The commissioner shall revoke the charter of an open-enrollment charter school in accordance with the procedure adopted under Subsection (a) if, after all information required for determining a performance rating under Subchapter D, Chapter 39, has been considered, the commissioner determines that the school is insolvent. In determining whether the school is insolvent, the commissioner shall consider whether the insolvency is a result of recovery of overallocated state funds under Section 42.258(a).

(b) The commissioner shall revoke the charter of an open-enrollment charter school without a hearing if each campus operated under the school's charter has been ordered closed under Section 39.107.

(b-1) The procedure adopted under Subsection (a) for

denying renewal of the charter of an open-enrollment charter school must provide that the charter automatically renews unless the school's charter is revoked under Subchapter E, Chapter 39, before the expiration of a charter term. In addition, the procedure must require the commissioner and the charter holder to act in a timely manner, according to the procedure, to initiate revocation or renewal of the charter, as applicable. The term for which a charter is renewed shall not be less than 10 years.

(c) Chapter 2001, Government Code, does not apply to a hearing that is related to a modification, placement on probation, revocation, alternative to revocation, or denial of renewal under this subchapter.

SECTION \_\_\_\_\_. Subsection (a), Section 12.1164, Education Code, is amended to read as follows:

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

SECTION \_\_\_\_\_. Section 12.117, Education Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) An open-enrollment charter school for which a license is issued on or after September 1, 2011, may not admit a student unless the student:

(1) was enrolled in a public school in this state during the school year preceding the school year for which the student is seeking admission to the charter school; or

(2) is seeking admission for the first grade or a lower grade level.

(d) An open-enrollment charter school authorized by a license issued or charter granted under this subchapter to a municipality:

(1) is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admissions policies that apply to open-enrollment charter schools receiving federal funding; and

(2) notwithstanding Subsection (a), may admit children of employees of the municipality to the school before

conducting a lottery to fill remaining available positions, provided that the number of children admitted under this subdivision constitutes only a small percentage, as may be further specified by federal regulation, of the school's total enrollment.

SECTION \_\_\_\_\_. Subsection (a), Section 12.118, Education Code, is amended to read as follows:

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

SECTION \_\_\_\_\_. 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 \_\_\_\_\_. Section 12.156, Education Code, is amended to read as follows:

Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a) Except as otherwise provided by this subchapter, Subchapter D applies to a college or university charter school or junior college charter school as though the college or university charter school or junior college charter school, as applicable, were issued a license or granted a charter under that subchapter.

(b) A license issued or charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101(b).

SECTION \_\_\_\_\_. Subsection (b), Section 12.113, Education Code, is repealed.

SECTION \_\_\_\_\_. The amendment of Subchapter D, Chapter 12, Education Code, by this Act, does not affect the status of a charter granted under Subchapter D, Chapter 12, Education Code, before the effective date of this Act and the implementation of licensing under Subchapter D, Chapter 12, Education Code, in accordance with this Act.

SECTION \_\_\_\_\_. Section 12.101, Education Code, as amended by

this Act, and Sections 12.1011 and 12.10111, Education Code, as added by this Act, apply beginning with the 2012-2013 school year.