

By: Dorazio

H.B. No. 3101

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of professional charter academies.

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

SECTION 1. The purpose of this Act is to increase efficiency by providing highly qualified education professionals an opportunity to:

(1) operate an educational institution and function independently;

(2) have access to property rights and the rewards inherent in those rights that are similar to those rights and rewards available to other professionals; and

(3) innovate and create educational programs tailored specifically to the students enrolled in a professional charter academy.

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

SUBCHAPTER F. PROFESSIONAL CHARTER ACADEMY PROGRAM

Sec. 12.201. PROFESSIONAL CHARTER ACADEMY PROGRAM; RULES.

(a) The comptroller, in coordination with the commissioner, shall establish a professional charter academy program under which eligible education professionals are authorized to create and operate a professional charter academy in accordance with this subchapter.

(b) The comptroller, in coordination with the commissioner,

1 shall adopt rules to administer this subchapter. The rules must  
2 include provisions relating to prevention of fraud and abuse in  
3 financial transactions under the professional charter academy  
4 program.

5 Sec. 12.202. ELIGIBLE EDUCATION PROFESSIONALS. (a) To be  
6 eligible to operate a professional charter academy under this  
7 subchapter, an education professional must:

8 (1) have at least three years of classroom teaching  
9 experience;

10 (2) have been rated as proficient or higher for at  
11 least three years under the evaluation system used to evaluate the  
12 professional; or

13 (3) have served as the principal of a school for at  
14 least three years.

15 (b) A professional charter academy must be operated by at  
16 least one eligible education professional and be formed as a  
17 corporation governed under Title 2, Business Organizations Code.

18 Sec. 12.203. APPLICATION OF LAWS. A professional charter  
19 academy is subject only to federal and state laws applicable to  
20 schools accredited by an organization that is monitored and  
21 approved by the Texas Private School Accreditation Commission. A  
22 professional charter academy is not subject to state law applicable  
23 to charter schools authorized by law other than this subchapter.

24 Sec. 12.204. INITIAL FUNDING. An education professional  
25 eligible under Section 12.202 is responsible for securing initial  
26 capital from sources other than public funding for the  
27 establishment of a professional charter academy. The comptroller

1 may not provide any public or state funding to an eligible education  
2 professional operating a professional charter academy during the  
3 first 12 months of operation of the academy.

4 Sec. 12.205. GRANTING OF CHARTER. The comptroller shall  
5 grant a charter to operate a professional charter academy to an  
6 education professional eligible under Section 12.202 if the  
7 professional provides to the comptroller:

8 (1) a viable business plan;

9 (2) proof of financial ability to fund 12 months of the  
10 academy's anticipated operation expenses, presented in the form of  
11 a bank letter of credit or other acceptable financial guarantee;  
12 and

13 (3) demonstration of parental and community interest  
14 in the establishment of a professional charter academy.

15 Sec. 12.206. PUBLIC FUNDING. (a) Funding under this  
16 section may only be provided for a school year after the first full  
17 school year in which a professional charter academy is in  
18 operation.

19 (b) For each school year after the first school year in  
20 which a professional charter academy is in operation, the  
21 comptroller shall provide to a student who will attend the academy  
22 or the student's parent an amount equal to the average state funding  
23 per student received by open-enrollment charter schools under  
24 Subchapter D during the preceding school year. The student or the  
25 student's parent may assign the funding received under this section  
26 to the academy the student attends. The comptroller may adjust the  
27 amount provided in accordance with the student's period of actual

1 enrollment in the academy during the school year.

2 (c) The comptroller shall provide the funding under  
3 Subsection (b) to the student, to the student's parent, or, if the  
4 funding has been assigned to the professional charter academy, to  
5 the academy, not later than the 90th day after the date the  
6 comptroller receives enrollment data reports from the academy at  
7 the end of each school year for which the academy is eligible for  
8 funding under this section.

9 (d) Federal funds and money from the available school fund  
10 may not be used to make payments under this subchapter.

11 Sec. 12.207. ADMINISTRATIVE COSTS. (a) Notwithstanding  
12 Section 12.206(b), the comptroller may deduct a percentage of each  
13 payment provided under that subsection to cover the comptroller's  
14 costs in implementing and administering the program. The  
15 percentage deducted from each payment may not exceed the lesser of:

16 (1) the pro rata cost of the program in the applicable  
17 year; or

18 (2) two percent of the amount of each payment.

19 (b) This section expires September 1, 2033.

20 SECTION 3. (a) The constitutionality and other validity  
21 under the state or federal constitution of all or any part of  
22 Subchapter F, Chapter 12, Education Code, as added by this Act, may  
23 be determined in an action for declaratory judgment in a district  
24 court in Travis County under Chapter 37, Civil Practice and  
25 Remedies Code, except that this section does not authorize an award  
26 of attorney's fees against this state and Section 37.009, Civil  
27 Practice and Remedies Code, does not apply to an action filed under

1 this section.

2 (b) An appeal of a declaratory judgment or order, however  
3 characterized, of a district court, including an appeal of the  
4 judgment of an appellate court, holding or otherwise determining  
5 that all or any part of Subchapter F, Chapter 12, Education Code, as  
6 added by this Act, is constitutional or unconstitutional, or  
7 otherwise valid or invalid, under the state or federal constitution  
8 is an accelerated appeal.

9 (c) If the judgment or order is interlocutory, an  
10 interlocutory appeal may be taken from the judgment or order and is  
11 an accelerated appeal.

12 (d) A district court in Travis County may grant or deny a  
13 temporary or otherwise interlocutory injunction or a permanent  
14 injunction on the grounds of the constitutionality or  
15 unconstitutionality, or other validity or invalidity, under the  
16 state or federal constitution of all or any part of Subchapter F,  
17 Chapter 12, Education Code, as added by this Act.

18 (e) There is a direct appeal to the Texas Supreme Court from  
19 an order, however characterized, of a trial court granting or  
20 denying a temporary or otherwise interlocutory injunction or a  
21 permanent injunction on the grounds of the constitutionality or  
22 unconstitutionality, or other validity or invalidity, under the  
23 state or federal constitution of all or any part of Subchapter F,  
24 Chapter 12, Education Code, as added by this Act.

25 (f) The direct appeal is an accelerated appeal.

26 (g) This section exercises the authority granted by Section  
27 3-b, Article V, Texas Constitution.

1           (h) The filing of a direct appeal under this section will  
2 automatically stay any temporary or otherwise interlocutory  
3 injunction or permanent injunction granted in accordance with this  
4 section pending final determination by the Texas Supreme Court,  
5 unless the supreme court makes specific findings that the applicant  
6 seeking such injunctive relief has pleaded and proved that:

7           (1) the applicant has a probable right to the relief it  
8 seeks on final hearing; and

9           (2) the applicant will suffer a probable injury that  
10 is imminent and irreparable, and that the applicant has no other  
11 adequate legal remedy.

12           (i) An appeal under this section, including an  
13 interlocutory, accelerated, or direct appeal, is governed, as  
14 applicable, by the Texas Rules of Appellate Procedure, including  
15 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),  
16 38.6(a) and (b), 40.1(b), and 49.4.

17           SECTION 4. As soon as practicable, but not later than  
18 October 15, 2023, the comptroller of public accounts, in  
19 coordination with the commissioner of education, shall establish  
20 the professional charter academy program as required under  
21 Subchapter F, Chapter 12, Education Code, as added by this Act.

22           SECTION 5. This Act takes effect September 1, 2023.