

BILL ANALYSIS

C.S.H.B. 859
By: Madden
Public Education
Committee Report (Substituted)

BACKGROUND

In 1995, the Texas Legislature authorized home-rule school district charters to allow school districts and administrators, with voter approval, to free themselves of state requirements. A home-rule school district would then be allowed to seek a district wide approach to educational innovation. Since the authorization to create a home-rule charter became available, however, neither voter driven petitions nor board resolutions have ever initiated this process. The lack of even one home-rule charter district is commonly attributed to two issues. The first is that the process of creating a home-rule district is onerous to a degree that none are willing to face the expenses that would be associated with it, especially election expenses, given the extremely high voter participation requirement. The second reason is that a home-rule school district would be essentially as regulated as a regular school district so that the option presents no real benefit.

PURPOSE

The purpose of this bill is to replace the current home-rule school district charter provisions with a less burdensome process for initiating, creating and operating a home-rule charter public school district in order to seek a district wide approach to educational innovation. C.S.H.B. 859 repeals the current home-rule school district charter provisions and sets forth a limited list of state requirements that must be followed, including public school accountability requirements and student admissions and attendance, in order to make the home rule option less regulated than regular independent school districts.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Board of Education in SECTION 1 (Section 12.024, Education Code) of this bill.

ANALYSIS

C.S.H.B. 859 amends the Education Code to authorize a school district to adopt a home-rule school district. The bill provides that a school district's adoption, amendment, or rescission of a home-rule school district does not affect the district's boundaries or any district taxes or bonds authorized prior to the effective date of the charter adoption, amendment, or rescission. The bill provides that a home-rule school district is subject to federal and state laws and rules governing school districts, any state provision or rule specific only to a home-rule school district, and all federal law and court ordered special education and bilingual program requirements.

The bill provides that a home-rule school district has the same powers and entitlements granted to school districts and school boards, including taxing authority and sets forth certain provisions, prohibitions, restrictions, and requirements for a home-rule school district. The bill requires the board of trustees to frame a home-rule school district charter if the board receives a petition signed by a number of registered voters in the district equal to at least five percent of the number of votes received by all gubernatorial candidates

in the most recent general election or a majority of the school board adopts a resolution to frame a home-rule school district charter.

The bill sets forth a list of what must be included in each home-rule school district charter. The bill requires the school district's legal counsel to review and make recommendations modifying a proposed charter to ensure compliance with all applicable laws.

The bill also requires the board of trustees to order an election on the proposed charter after legal review and sets forth provisions regarding proposed charter elections. The bill authorizes the board of trustees of a home-rule school district to order an election on a proposed charter amendment, including a proposed amendment that rescinds the charter. The bill sets forth provisions concerning proposed charter amendment elections.

The bill provides that a proposed home-rule school district charter or a proposed charter amendment, including an amendment that rescinds the charter, is adopted if approved by a majority of the qualified voters. The bill requires the president of the board of trustees to certify to the secretary of state a copy of the charter or amendment showing the approval by the voters of the district after a school district adopts a home-rule school district charter. The bill provides that a recorded charter or charter amendment is a public act and requires a court to take judicial notice of a recorded charter or charter amendment. The bill provides that the members of the board of trustees continue to serve in office on the date the adoption, amendment, rescission, or revocation takes effect if a change in the structure of the board of trustees of the school district occurs and until successors have been chosen and qualified for office.

The bill authorizes the State Board of Education to place on probation or revoke a charter of a home-rule school district if the board determines that the district committed a material violation of the charter, failed to satisfy general accepted accounting standards of fiscal management, or failed to comply with this subchapter, another law, or a state agency rule. The bill sets forth provisions relating to the procedure for the placement of a home-rule school district on probation and a revocation of charter. The bill requires the board to revoke a home-rule charter of a school district that is rated academically unacceptable. The bill authorizes a board to revoke a home-rule charter if a district receives a lower performance rating than the previous year and fails to improve the lower rating during the following year.

The bill repeals Subchapter B, Chapter 12 of the Education Code relating to charters.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 859 modifies the original version by providing that a home-rule school district is subject to Subchapters C and D, Chapter 11, Education Code relating to the general provisions governing a school board of trustees of an independent school district and the powers and duties of boards of trustees of independent school districts. C.S.H.B. 859 modifies the original by including requirements relating to enrollment, attendance and admission policies under Subchapter A, Chapter 25 of the Texas Education Code and special education programs under Subchapter A, Chapter 29, as provisions home-rule districts are subject to. C.S.H.B. 859 modifies the original by providing that a home-rule district is subject to requirements relating to bilingual education programs under Subchapter B, Chapter 29, Education Code rather than only under Section 29.056.

C.S.H.B. 859 modifies the original by adding minimum salary entitlements of Section 21.402 as a requirement to be met by a school district at the time it adopts a home rule charter. C.S.H.B. 859 modifies the original by requiring the school district's legal counsel to review any proposed amendment to a home

rule charter to ensure the amendment's compliance with applicable laws. C.S.H.B. modifies the original by adding provisions under which a home-rule charter of a school district may be revoked.