

BILL ANALYSIS

Senate Research Center

H.B. 2224
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Education
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Engrossed

DIGEST AND PURPOSE

In 1995, the 74th Texas Legislature authorized the creation of open-enrollment charter schools to foster competition and innovation in Texas public schools as a whole. Financial troubles and statutory ambiguities contributed to the failures of several charter schools and caused the legislature to slow the growth of charter schools in 2001 (77th Regular Session, H.B. 6) and adopt stronger accountability and oversight provisions regarding charter school operation. Since that time, the vast majority of open-enrollment charter schools have made progress in providing quality instruction to students who often performed poorly in traditional public schools. Several of the provisions adopted in 2001 hinder the ability of open-enrollment charter schools to accomplish their mission. Implementation of certain charter school regulations has further strained the operation of many open-enrollment charter schools.

H.B. 2224 amends certain provisions of the Education Code regulating open enrollment charter schools

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 8 (Section 12.125, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.101(b), Education Code, to authorize the State Board of Education (SBOE) to grant a charter for an open-enrollment charter school only to an applicant that meets reasonable, rather than any, financial, governing, and operational standards adopted by the commissioner of education (commissioner) under this subchapter and approved by the board of trustees of a school district or the governing body of a home-rule school district (board).
Makes a nonsubstantive change.

SECTION 2. Amends Section 12.1052, Education Code, as follows:

Sec. 12.1052. New heading: APPLICABILITY OF LAWS RELATING TO RECORDS.

(a) Provides that with respect only to the retention of personnel records and records of a student enrolled in or formerly enrolled in, rather than the operation of, an open-enrollment charter school, an open-enrollment charter school is considered to be a local government for purposes of Subtitle C, Title 6, Local Government Code, and Subchapter J, Chapter 441, Government Code. Provides that a charter holder or an open-enrollment charter school is required to retain school records other than personnel records or records related to a student enrolled or formerly enrolled at the school only as provided by the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.).

(b) Provides that records retained under Subsection (a), rather than records of an open-enrollment charter school and records of a charter holder that relate to an open-enrollment charter school, are government records for all purposes under state law.

(c) Makes conforming changes. Deletes existing text relating to an officer of an open-enrollment charter school.

(d) Makes a conforming and a nonsubstantive change.

(e) Makes a conforming change.

SECTION 3. Amends Section 12.114, Education Code, as follows:

(a) Makes a conforming and a nonsubstantive change.

(b) Authorizes the governing body of an open-enrollment charter school to revise the school's charter without the approval of the commissioner as necessary to comply with a change in law. Requires the governing body to provide the commissioner written notice of the revision not later than the 14th day after the date the revision is approved by the governing body.

(c) Provides that a revision of a charter of an open-enrollment charter school under Subsection (b) is final unless the commissioner provides the governing body of the school written notice of the commissioner's disapproval not later than the 30th day after the date the commissioner receives notice of the revision. Requires the commissioner, with any notice of disapproval, to include a statement of the reasons for disapproval.

(d) Provides that Subsections (b) and (c) do not apply to a revision of a charter of an open-enrollment charter school that relates to adding an additional campus or increasing the enrollment of the school.

SECTION 4. Amends the heading of Section 12.116, Education Code, to read as follows:

Sec. 12.116. PROCEDURE FOR CLOSURE, MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, OR DENIAL OF RENEWAL.

SECTION 5. Amends Sections 12.116(a) and (c), Education Code, as follows:

(a) Requires the commission to adopt a procedure to be used for closing an open-enrollment charter school or modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school.

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

SECTION 6. Amends Section 12.117, Education Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Makes a conforming change.

(c) Authorizes an open-enrollment charter school to give preference in admissions to the school if the preference is based on certain standards.

(d) Prohibits an open-enrollment charter school, in admitting students under this section, from discriminating on the basis of a student's race, color, creed, religion, or national origin.

SECTION 7. Amends Section 12.119(b), Education Code, to require an open-enrollment charter school, each year within the period and in a form prescribed by SBOE, to file certain information with the board.

SECTION 8. Amends Sections 12.125 and 12.126, Education Code, as follows:

Sec. 12.125. CONTRACT FOR MANAGEMENT SERVICES. (a) Subsection created from existing text.

(b) Authorizes the commissioner, by rule, to adopt guidelines for a contract under this section between an open-enrollment charter school and a management company.

(c) Provides that the initial contract under this section between an open-enrollment charter school and a management company does not require approval of the commissioner.

Sec. 12.126. CERTAIN MANAGEMENT SERVICES CONTRACTS PROHIBITED. Authorizes the commissioner to require the governing body of an open-enrollment charter school to prohibit or deny renewal, suspension, or revocation of a contract between the school and a management company providing management services to the school if the commissioner determines the company has substantially failed certain tasks or violated this subchapter or a rule adopted under this subchapter. Deletes existing text authorizing the commissioner to take those discrete actions.

SECTION 9. Section 22.083(a), Education Code, to add an open-enrollment charter school to the list of entities authorized to obtain from any law enforcement or criminal justice agency all criminal history record information that relates to certain persons.

SECTION 10. Amends Section E, Article 2.23A, Texas Non-Profit Corporation Act (Article 1396-2.23A, V.T.C.S.), to add an open-enrollment charter school as an exception to the list of schools or school systems to which this article does not apply.

SECTION 11. Makes application of this Act prospective to the beginning of the 2003-2004 school year.

SECTION 12. Effective date: upon passage or September 1, 2003.