

BILL ANALYSIS

C.S.H.B. 2224
By: Dutton
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

On May 30, 1995, the 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 from accomplishing their mission. Implementation of certain charter school regulations has further strained the operation of many open enrollment charter schools.

House Bill 2224 amends certain provisions of the Education Code regulating open enrollment charter schools.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 12 (Section 12.125, Education Code) of this bill.

ANALYSIS

C.S.H.B. 2224 amends the Education Code to require the charter applicant meet reasonable standards adopted by the commissioner of education (commissioner) and defines an officer of an open-enrollment charter school to be a member of the governing body, who holds the position of presiding officer, president, vice-president, or another similar position. The bill requires a charter school to retain school records, other than personnel and student records, only as provided by the Texas Non-Profit Corporation Act.

The bill permits a charter holder to revise the school's charter without the approval of the commissioner if the change is needed to comply with law. The bill requires notice of the change to be made within 14 days of the action and is final unless the commissioner responds within 30 days of receipt of notice of revision. The bill provides that if revision is disapproved, the commissioner shall provide reasons for disapproval. The bill applies Chapter 2001, Government Code to a hearing for the purpose of modification, placement on probation, revocation, or denial of charter.

The bill permits charter schools to give preference in admissions if based on standards that conform with the Federal Non-Regulatory Guidance authorized by 20 U.S.C. Sections 7221-7221j, or is consistent with the school's mission as specified in the charter and consistent with admission practices in public schools. The bill prohibits a charter school from discriminating on the basis of race, color, creed, religion, or national origin.

The bill removes conviction of a misdemeanor involving moral turpitude as an impediment for employment as a charter school governing body member.

The bill conforms liability of a member of the governing body of a charter holder or charter school for breach of fiduciary duty to that of a member of a school district board of trustees. In addition, the bill conforms bringing lawsuits against board members to the same extent of a school district board of trustees.

The bill authorizes the commissioner to adopt guidelines for contracts between open enrollment charter schools and management companies, but specifies that such a contract does not require the approval of the commissioner. In addition, the bill authorizes the commissioner to require an open enrollment charter school to consider denying, revoking, or suspending a contact between the school and management companies based on certain requirements.

The bill includes an open-enrollment charter school as an entity that is authorized to obtain criminal history record information.

The bill repeals 12.122(c) relating to the liability of members of governing body of charter school, and repeals 22.083(b) relating to obtaining criminal history records.

This Act applies beginning with the 2003-2004 school year.

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. 2224 modifies the original by deleting the transportation allotment to open enrollment charter schools in the same manner as a school district. C.S.H.B. 2224 modifies the original by deleting open enrollment charter schools from the list of entities exempted from fuel tax. C.S.H.B. 2224 modifies the original by adding provisions relating to the governing body, admissions, and charter of an open-enrollment charter school.