

By: Madden, Grusendorf, Eissler, et al.

H.B. No. 859

Substitute the following for H.B. No. 859:

By: Madden

C.S.H.B. No. 859

A BILL TO BE ENTITLED

AN ACT

relating to home-rule school districts.

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

SECTION 1. Chapter 12, Education Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. HOME-RULE SCHOOL DISTRICT CHARTER

Sec. 12.011. AUTHORIZATION AND STATUS. (a) In accordance with this subchapter, a school district may adopt a home-rule school district charter under which the district will operate.

(b) A school district's adoption, amendment, or rescission of a home-rule school district charter does not affect:

(1) the district's boundaries; or

(2) any taxes or bonds of the district authorized before the effective date of the charter adoption, amendment, or rescission.

Sec. 12.012. APPLICABILITY OF LAWS AND RULES TO HOME-RULE SCHOOL DISTRICT. (a) A home-rule school district is subject to federal and state laws and rules governing school districts, except that a home-rule school district is subject to:

(1) this code only to the extent that the applicability to a home-rule school district of a provision of this code is specifically provided;

(2) a rule adopted under this code by the State Board of Education or the commissioner only if the code provision

1 authorizing the rule specifically applies to a home-rule school
2 district and, in the case of a board rule, the rule is approved on
3 final adoption by a two-thirds record vote of the membership of the
4 board; and

5 (3) all requirements of federal law and applicable
6 court orders relating to eligibility for and the provision of
7 special education and bilingual programs.

8 (b) An employee of a home-rule school district who qualifies
9 for membership in the Teacher Retirement System of Texas shall be
10 covered under the system in the same manner and to the same extent
11 as a qualified employee employed by an independent school district
12 is covered.

13 Sec. 12.013. APPLICABILITY OF TITLE. (a) A home-rule
14 school district has the powers and entitlements granted to school
15 districts and school district boards of trustees under this title,
16 including taxing authority.

17 (b) A home-rule school district is subject to:

18 (1) a provision of this title establishing a criminal
19 offense;

20 (2) a provision of this title relating to limitations
21 on liability;

22 (3) Subchapters C and D, Chapter 11; and

23 (4) a prohibition, restriction, or requirement, as
24 applicable, imposed by this title or a rule adopted under this
25 title, relating to:

26 (A) the Public Education Information Management
27 System (PEIMS) to the extent necessary to monitor compliance with

- 1 this subchapter as determined by the commissioner;
2 (B) criminal history records under Subchapter C,
3 Chapter 22;
4 (C) student admissions and enrollment under
5 Subchapter A, Chapter 25;
6 (D) school attendance under Sections 25.085 and
7 25.086;
8 (E) high school graduation under Section 28.025;
9 (F) special education programs under Subchapter
10 A, Chapter 29;
11 (G) bilingual education under Subchapter B,
12 Chapter 29;
13 (H) computation and distribution of state aid
14 under Chapters 31, 42, and 43;
15 (I) extracurricular activities under Section
16 33.081;
17 (J) health and safety under Sections 38.001,
18 38.009, 38.0095, and 38.010;
19 (K) public school accountability under Chapter
20 39;
21 (L) equalized wealth under Chapter 41;
22 (M) a bond or other obligation or tax rate under
23 Chapters 42, 43, 45, and 46; and
24 (N) purchasing under Chapter 44.
25 (c) A person employed by a school district and entitled to a
26 minimum salary under Section 21.402 at the time the district adopts
27 a home-rule school district charter shall, for the duration of the

1 person's employment with the district, receive a salary at least
2 equal to the person's salary immediately before adoption of the
3 charter.

4 Sec. 12.014. FRAMING OF HOME-RULE SCHOOL DISTRICT CHARTER.

5 (a) The board of trustees of a school district shall frame a
6 home-rule school district charter if:

7 (1) the board receives a petition requesting that the
8 board frame a home-rule school district charter and the petition is
9 signed by a number of registered voters of the district equal to at
10 least five percent of the number of votes received in the district
11 by all candidates for governor in the most recent gubernatorial
12 general election; or

13 (2) a majority of the total membership of the board
14 adopts a resolution to frame a home-rule school district charter.

15 (b) The board of trustees shall complete a proposed charter
16 not later than the first anniversary of the date of the petition or
17 resolution described by Subsection (a).

18 Sec. 12.015. CONTENT. Each home-rule school district
19 charter must:

20 (1) describe the educational program to be offered;

21 (2) provide that continuation of the home-rule school
22 district charter is contingent on:

23 (A) acceptable student performance on assessment
24 instruments adopted under Subchapter B, Chapter 39, and maintenance
25 of the school district's performance rating under Section 39.072;
26 and

27 (B) compliance with any accountability provision

1 specified by the charter, by a deadline or at intervals specified by
2 the charter;

3 (3) specify any basis, in addition to a basis
4 specified by this subchapter, on which the charter may be placed on
5 probation or revoked;

6 (4) to the extent consistent with Subchapters C and D,
7 Chapter 11, describe the governing structure of the district and
8 campuses;

9 (5) specify a procedure that the district will follow
10 to ensure the health and safety of students and employees;

11 (6) describe the process by which the district will
12 adopt an annual budget;

13 (7) describe the manner in which an annual audit of
14 financial and programmatic operations of the district is to be
15 conducted, including the manner in which the district will provide
16 information necessary for the district to participate in the Public
17 Education Information Management System (PEIMS) to the extent
18 required by this subchapter; and

19 (8) include any other provision the board of trustees
20 of the school district considers necessary.

21 Sec. 12.016. LEGAL REVIEW. As soon as practicable after the
22 board of trustees of a school district completes a proposed
23 home-rule school district charter, the school district's legal
24 counsel shall review the proposed charter to ensure that the
25 proposed charter complies with any applicable laws and shall
26 recommend to the board any modifications necessary.

27 Sec. 12.017. CHARTER ELECTION. (a) As soon as practicable

1 after the legal review under Section 12.016, the board of trustees
2 of the district shall order an election on the proposed charter.

3 (b) The proposed charter shall be submitted to the voters of
4 the district at an election to be held on the first uniform election
5 date that occurs at least 45 days after the date on which the board
6 of trustees orders the election.

7 (c) At least three copies of the proposed charter must be
8 available in the office of each school campus in the district and at
9 the district's central administrative office between the date of
10 the election order and election day. Notice of the election must
11 include a statement of where and how copies may be obtained or
12 viewed. A summary of the content of the proposed charter shall be
13 attached to each copy. The summary also shall be made available to
14 school district employees, parents, community members, and members
15 of the media.

16 (d) The ballot shall be printed to permit voting for or
17 against the proposition: "Whether the (name of school district)
18 School District shall be governed under the home-rule school
19 district charter, which is proposed by the board of trustees and
20 under which only certain laws and rules apply to the district."

21 Sec. 12.018. CHARTER AMENDMENT. (a) The board of trustees
22 of a home-rule school district on its own motion may order an
23 election on a proposed charter amendment that complies with this
24 subchapter, including a proposed amendment that rescinds the
25 charter.

26 (b) The board of trustees shall order an election on a
27 proposed charter amendment that complies with this subchapter,

1 including a proposed amendment that rescinds the charter, if a
2 petition submitted to the board proposing the charter amendment is
3 signed by a number of registered voters of the district equal to at
4 least five percent of the number of votes received in the district
5 by all candidates for governor in the most recent gubernatorial
6 general election.

7 (c) Before the board of trustees of a school district orders
8 an election on a proposed charter amendment, the district's legal
9 counsel shall review the proposed amendment to ensure that the
10 proposed amendment complies with any applicable laws and shall
11 recommend to the board any modifications necessary.

12 (d) An election under this section shall be held on the
13 first uniform election date that occurs at least 45 days after the
14 date the election is ordered.

15 (e) Notice of the election must include a substantial copy
16 of the proposed charter amendment.

17 (f) A charter amendment may not contain more than one
18 subject.

19 (g) The ballot shall be prepared so that a voter may approve
20 or disapprove any one or more charter amendments without having to
21 approve or disapprove all of the charter amendments.

22 (h) The board of trustees may not order an election on a
23 proposed charter amendment earlier than the second anniversary of
24 the date of any previous election to amend the charter.

25 Sec. 12.019. ADOPTION OF CHARTER OR CHARTER AMENDMENT. (a)
26 A proposed home-rule school district charter or a proposed charter
27 amendment, including an amendment that rescinds the charter, is

1 adopted if approved by a majority of the qualified voters of the
2 district voting at an election held for that purpose.

3 (b) A charter or charter amendment shall specify an
4 effective date and takes effect according to its terms when the
5 board of trustees of the school district enters an order declaring
6 that the charter or charter amendment is adopted. The board shall
7 enter an order not later than the 10th day after the date the
8 canvass of the election returns is completed.

9 Sec. 12.020. CERTIFICATION OF CHARTER OR CHARTER AMENDMENT.

10 (a) As soon as practicable after a school district adopts a
11 home-rule school district charter or charter amendment, the
12 president of the board of trustees shall certify to the secretary of
13 state a copy of the charter or amendment showing the approval by the
14 voters of the district.

15 (b) The secretary of state shall file and record the
16 certification in the secretary of state's office.

17 Sec. 12.021. EFFECT OF RECORDING CHARTER OR CHARTER
18 AMENDMENT. A recorded charter or charter amendment is a public act.
19 A court shall take judicial notice of a recorded charter or charter
20 amendment and proof of its provisions is not required.

21 Sec. 12.022. CHANGE IN BOARD OF TRUSTEES. To the extent
22 consistent with Subchapter C, Chapter 11, if the adoption,
23 amendment, rescission, or revocation of a home-rule school district
24 charter changes the structure of the board of trustees of the school
25 district, the members of the board serving on the date the adoption,
26 amendment, rescission, or revocation takes effect continue in
27 office until their successors are chosen and have qualified for

1 office.

2 Sec. 12.023. BASIS FOR PLACEMENT ON PROBATION OR REVOCATION
3 OF CHARTER. (a) The State Board of Education may place on
4 probation or revoke a home-rule school district charter of a school
5 district if the board determines that the district:

6 (1) committed a material violation of the charter;

7 (2) failed to satisfy generally accepted accounting
8 standards of fiscal management; or

9 (3) failed to comply with this subchapter, another
10 law, or a state agency rule.

11 (b) The action the board takes under Subsection (a) shall be
12 based on the best interest of district students, the severity of the
13 violation, and any previous violation the district has committed.

14 (c) The board shall revoke the home-rule school district
15 charter of a school district that is rated academically
16 unacceptable for a school year under Section 39.072.

17 (d) The board may revoke the home-rule school district
18 charter of a school district if the district receives a performance
19 rating for a school year under Section 39.072 that is lower than the
20 rating the district received for the preceding school year and the
21 district fails to improve the lower rating during the following
22 school year.

23 (e) A revocation under Subsection (c) or (d) takes effect at
24 the end of the applicable school year.

25 (f) A district whose home-rule school district charter is
26 revoked or rescinded under this subchapter shall operate under the
27 other provisions of Title 1 and this title that apply to school

1 districts.

2 Sec. 12.024. PROCEDURE FOR PLACEMENT ON PROBATION OR
3 REVOCATION. (a) The State Board of Education by rule shall adopt a
4 procedure to be used for placing on probation or revoking a
5 home-rule school district charter.

6 (b) The procedure adopted under Subsection (a) must provide
7 an opportunity for a hearing to the district and to parents of
8 district students. A hearing under this subsection must be held in
9 the district.

10 SECTION 2. Subchapter B, Chapter 12, Education Code, as added
11 by Chapter 260, Acts of the 74th Legislature, Regular Session,
12 1995, is repealed.

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2003.