

By: Madden

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; and

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

25 (A) the Public Education Information Management
26 System (PEIMS) to the extent necessary to monitor compliance with
27 this subchapter as determined by the commissioner;

1 (B) criminal history records under Subchapter C,
2 Chapter 22;

3 (C) student admissions;

4 (D) school attendance under Sections 25.085 and
5 25.086;

6 (E) bilingual education under Section 29.056, if
7 the district offers a bilingual education or special language
8 program;

9 (F) computation and distribution of state aid
10 under Chapters 31, 42, and 43;

11 (G) extracurricular activities under Section
12 33.081;

13 (H) health and safety under Sections 38.001,
14 38.009, 38.0095, and 38.010;

15 (I) public school accountability under Chapter
16 39;

17 (J) equalized wealth under Chapter 41; and

18 (K) a bond or other obligation or tax rate under
19 Chapters 42, 43, and 45.

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

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

23 (1) the board receives a petition requesting that the
24 board frame a home-rule school district charter and the petition is
25 signed by a number of registered voters of the district equal to at
26 least five percent of the number of votes received in the district
27 by all candidates for governor in the most recent gubernatorial

1 general election; or

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

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

7 Sec. 12.015. CONTENT. Each home-rule school district
8 charter must:

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

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

12 (A) acceptable student performance on assessment
13 instruments adopted under Subchapter B, Chapter 39; and

14 (B) compliance with any accountability provision
15 specified by the charter, by a deadline or at intervals specified by
16 the charter;

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

20 (4) describe the governing structure of the district
21 and campuses;

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

24 (6) describe the process by which the district will
25 adopt an annual budget;

26 (7) describe the manner in which an annual audit of
27 financial and programmatic operations of the district is to be

1 conducted, including the manner in which the district will provide
2 information necessary for the district to participate in the Public
3 Education Information Management System (PEIMS) to the extent
4 required by this subchapter; and

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

7 Sec. 12.016. LEGAL REVIEW. As soon as practicable after the
8 board of trustees of a school district completes a proposed
9 home-rule school district charter, the school district's legal
10 counsel shall review the proposed charter to ensure that the
11 proposed charter complies with any applicable laws and shall
12 recommend to the board any modifications necessary.

13 Sec. 12.017. CHARTER ELECTION. (a) As soon as practicable
14 after the legal review under Section 12.016, the board of trustees
15 of the district shall order an election on the proposed charter.

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

20 (c) At least three copies of the proposed charter must be
21 available in the office of each school campus in the district and at
22 the district's central administrative office between the date of
23 the election order and election day. Notice of the election must
24 include a statement of where and how copies may be obtained or
25 viewed. A summary of the content of the proposed charter shall be
26 attached to each copy. The summary also shall be made available to
27 school district employees, parents, community members, and members

1 of the media.

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

7 Sec. 12.018. CHARTER AMENDMENT. (a) The governing body of
8 a home-rule school district on its own motion may order an election
9 on a proposed charter amendment that complies with this subchapter,
10 including a proposed amendment that rescinds the charter.

11 (b) The governing body shall order an election on a proposed
12 charter amendment that complies with this subchapter, including a
13 proposed amendment that rescinds the charter, if a petition
14 submitted to the governing body proposing the charter amendment is
15 signed by a number of registered voters of the district equal to at
16 least five percent of the number of votes received in the district
17 by all candidates for governor in the most recent gubernatorial
18 general election.

19 (c) An election under this section shall be held on the
20 first uniform election date that occurs at least 45 days after the
21 date the election is ordered.

22 (d) Notice of the election must include a substantial copy
23 of the proposed charter amendment.

24 (e) A charter amendment may not contain more than one
25 subject.

26 (f) The ballot shall be prepared so that a voter may approve
27 or disapprove any one or more charter amendments without having to

1 approve or disapprove all of the charter amendments.

2 (g) The governing body may not order an election on a
3 proposed charter amendment earlier than the second anniversary of
4 the date of any previous election to amend the charter.

5 Sec. 12.019. ADOPTION OF CHARTER OR CHARTER AMENDMENT. (a)
6 A proposed home-rule school district charter or a proposed charter
7 amendment, including an amendment that rescinds the charter, is
8 adopted if approved by a majority of the qualified voters of the
9 district voting at an election held for that purpose.

10 (b) A charter or charter amendment shall specify an
11 effective date and takes effect according to its terms when the
12 governing body of the school district enters an order declaring
13 that the charter or charter amendment is adopted. The governing
14 body shall enter an order not later than the 10th day after the date
15 the canvass of the election returns is completed.

16 Sec. 12.020. CERTIFICATION OF CHARTER OR CHARTER AMENDMENT.
17 (a) As soon as practicable after a school district adopts a
18 home-rule school district charter or charter amendment, the
19 president of the board of trustees shall certify to the secretary of
20 state a copy of the charter or amendment showing the approval by the
21 voters of the district.

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

24 Sec. 12.021. EFFECT OF RECORDING CHARTER OR CHARTER
25 AMENDMENT. A recorded charter or charter amendment is a public act.
26 A court shall take judicial notice of a recorded charter or charter
27 amendment and proof is not required of its provisions.

1 Sec. 12.022. CHANGE IN GOVERNING BODY. If the adoption,
2 amendment, rescission, or revocation of a home-rule school district
3 charter changes the structure of the governing body of the school
4 district, the members of the governing body serving on the date the
5 adoption, amendment, rescission, or revocation takes effect
6 continue in office until their successors are chosen and have
7 qualified for office.

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

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

13 (2) failed to satisfy generally accepted accounting
14 standards of fiscal management; or

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

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

20 (c) A district whose home-rule school district charter is
21 revoked or rescinded under this subchapter shall operate under the
22 other provisions of Title 1 and this title that apply to school
23 districts.

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

1 (b) The procedure adopted under Subsection (a) must provide
2 an opportunity for a hearing to the district and to parents of
3 district students. A hearing under this subsection must be held in
4 the district.

5 SECTION 2. Subchapter B, Chapter 12, Education Code, as added
6 by Chapter 260, Acts of the 74th Legislature, Regular Session,
7 1995, is repealed.

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