

By: Dutton

H.B. No. 2224

A BILL TO BE ENTITLED

AN ACT

relating to open-enrollment charter schools.

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

SECTION 1. Section 12.101(b), Education Code, is amended to read as follows:

(b) The State Board of Education may grant a charter for an open-enrollment charter school only to an applicant that meets reasonable ~~[any]~~ financial, governing, and operational standards adopted by the commissioner under this subchapter and approved by the board. The board ~~[State Board of Education]~~ may not grant a total of more than 215 charters for an open-enrollment charter school.

SECTION 2. Section 12.1052, Education Code, is amended to read as follows:

Sec. 12.1052. APPLICABILITY OF LAWS RELATING TO ~~[LOCAL GOVERNMENT]~~ RECORDS. (a) With respect only to the retention of personnel records and records of a student enrolled in or formerly enrolled in ~~[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. 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

1 provided by the Texas Non-Profit Corporation Act (Article 1396-1.01  
2 et seq., Vernon's Texas Civil Statutes).

3 (b) Records retained under Subsection (a) [~~of an~~  
4 ~~open-enrollment charter school and records of a charter holder that~~  
5 ~~relate to an open-enrollment charter school~~] are government records  
6 for all purposes under state law.

7 (c) Any requirement in Subtitle C, Title 6, Local Government  
8 Code, or Subchapter J, Chapter 441, Government Code, that applies  
9 to a school district, the board of trustees of a school district, or  
10 an officer or employee of a school district applies to an  
11 open-enrollment charter school, the governing body of a charter  
12 holder, the governing body of an open-enrollment charter school, or  
13 an [~~officer or~~] employee of an open-enrollment charter school to  
14 the extent that the requirement relates to student or personnel  
15 records, except that the records required to be retained under  
16 Subsection (a) by [~~of~~] an open-enrollment charter school that  
17 ceases to operate shall be transferred in the manner prescribed by  
18 Subsection (d).

19 (d) The records required to be retained under Subsection (a)  
20 by [~~of~~] an open-enrollment charter school that ceases to operate  
21 shall be transferred in the manner specified by the commissioner to  
22 a custodian designated by the commissioner. The commissioner may  
23 designate any appropriate entity to serve as custodian, including  
24 the agency, a regional education service center, or a school  
25 district. In designating a custodian, the commissioner shall  
26 ensure that the transferred records, including student and  
27 personnel records, are transferred to a custodian capable of:

- 1           (1) maintaining the records;
- 2           (2) making the records readily accessible to students,  
3 parents, former school employees, and other persons entitled to  
4 access; and
- 5           (3) complying with applicable state or federal law  
6 restricting access to the records.

7           (e) If the charter holder of an open-enrollment charter  
8 school that ceases to operate or an officer or employee of such a  
9 school refuses to transfer school records required to be retained  
10 under Subsection (a) in the manner specified by the commissioner  
11 under Subsection (d), the commissioner may ask the attorney general  
12 to petition a court for recovery of the records. If the court  
13 grants the petition, the court shall award attorney's fees and  
14 court costs to the state.

15           SECTION 3. Section 12.114, Education Code, is amended to  
16 read as follows:

17           Sec. 12.114. REVISION. (a) Except as otherwise provided by  
18 this section, a [A] revision of a charter of an open-enrollment  
19 charter school may be made only with the approval of the  
20 commissioner.

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

27           (c) A revision of a charter of an open-enrollment charter

1 school under Subsection (b) is final unless the commissioner  
2 provides the governing body of the school written notice of the  
3 commissioner's disapproval not later than the 30th day after the  
4 date the commissioner receives notice of the revision. With any  
5 notice of disapproval, the commissioner shall include a statement  
6 of the reasons for disapproval.

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

11 SECTION 4. The heading of Section 12.116, Education Code,  
12 is amended to read as follows:

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

15 SECTION 5. Sections 12.116(a) and (c), Education Code, are  
16 amended to read as follows:

17 (a) The commissioner shall adopt a procedure to be used for  
18 closing an open-enrollment charter school or modifying, placing on  
19 probation, revoking, or denying renewal of the charter of an  
20 open-enrollment charter school.

21 (c) Chapter 2001, Government Code, applies [~~does not apply~~]  
22 to a hearing that is related to a modification, placement on  
23 probation, revocation, or denial of renewal under this subchapter.

24 SECTION 6. Section 12.117, Education Code, is amended by  
25 amending Subsection (a) and adding Subsections (c) and (d) to read  
26 as follows:

27 (a) For admission to an open-enrollment charter school, the

1 governing body of the school shall:

2 (1) require the applicant to complete and submit an  
3 application not later than a reasonable deadline the school  
4 establishes; and

5 (2) except as otherwise provided by Subsection (c), on  
6 receipt of more acceptable applications for admission under this  
7 section than available positions in the school:

8 (A) fill the available positions by lottery; or

9 (B) subject to Subsection (b), fill the available  
10 positions in the order in which applications received before the  
11 application deadline were received.

12 (c) An open-enrollment charter school may give preference  
13 in admissions to the school if the preference is based on:

14 (1) reasonable academic, artistic, or other  
15 eligibility standards, including gender, that are consistent with  
16 the nonregulatory guidance provided by the United States Department  
17 of Education for the public charter schools program authorized by  
18 20 U.S.C. Sections 7221-7221j, as amended, and specified in the  
19 school's charter application; and

20 (2) standards consistent with the school's mission and  
21 purpose, as specified in the school's charter, and consistent with  
22 admissions practices in public schools.

23 (d) In admitting students under this section, an  
24 open-enrollment charter school may not discriminate on the basis of  
25 a student's race, color, creed, religion, or national origin.

26 SECTION 7. Section 12.119(b), Education Code, is amended to  
27 read as follows:

1 (b) Each year within the period and in a form prescribed by  
2 the State Board of Education, each open-enrollment charter school  
3 shall file with the board the following information:

4 (1) the name, address, and telephone number of each:

5 (A) [officer and] member of the governing body of  
6 the open-enrollment charter school; ~~[and]~~

7 (B) principal, director, or other chief  
8 operating officer of the school;

9 (C) assistant principal or assistant director of  
10 the school; and

11 (D) person charged with managing the finances of  
12 the school; and

13 (2) the amount of annual compensation the  
14 open-enrollment charter school pays to each:

15 (A) [officer and] member of the governing body;

16 (B) principal, director, or other chief  
17 operating officer;

18 (C) assistant principal or assistant director;  
19 and

20 (D) person charged with managing the finances of  
21 the school.

22 SECTION 8. Sections 12.125 and 12.126, Education Code, are  
23 amended to read as follows:

24 Sec. 12.125. CONTRACT FOR MANAGEMENT SERVICES. (a) Any  
25 contract, including a contract renewal, between an open-enrollment  
26 charter school and a management company proposing to provide  
27 management services to the school must require the management

1 company to maintain all records related to the management services  
2 separately from any other records of the management company.

3 (b) The commissioner may by rule adopt guidelines for a  
4 contract under this section between an open-enrollment charter  
5 school and a management company.

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

9 Sec. 12.126. CERTAIN MANAGEMENT SERVICES CONTRACTS  
10 PROHIBITED. The commissioner may require the governing body of an  
11 open-enrollment charter school to prohibit ~~or~~ deny renewal,  
12 suspension, or revocation of ~~or suspend, or revoke~~ a contract  
13 between the ~~[an open-enrollment charter]~~ school and a management  
14 company providing management services to the school if the  
15 commissioner determines that the management company has:

16 (1) substantially failed to provide educational or  
17 related services in compliance with the company's contractual or  
18 other legal obligation to any ~~[open-enrollment charter]~~ school in  
19 this state or to any other similar school in another state;

20 (2) substantially failed to protect the health,  
21 safety, or welfare of the students enrolled at an open-enrollment  
22 charter school served by the company;

23 (3) violated this subchapter or a rule adopted under  
24 this subchapter; or

25 (4) otherwise failed to comply with any material  
26 contractual or other material legal obligation to provide services  
27 to the school.

1 SECTION 9. Section 22.083(a), Education Code, is amended to  
2 read as follows:

3 (a) A school district, private school, open-enrollment  
4 charter school, regional education service center, or shared  
5 services arrangement may obtain from any law enforcement or  
6 criminal justice agency all criminal history record information  
7 that relates to a person:

8 (1) whom the district, school, service center, or  
9 shared services arrangement intends to employ in any capacity; or

10 (2) who has indicated, in writing, an intention to  
11 serve as a volunteer with the district, school, service center, or  
12 shared services arrangement.

13 SECTION 10. Section E, Article 2.23A, Texas Non-Profit  
14 Corporation Act (Article 1396-2.23A, Vernon's Texas Civil  
15 Statutes), is amended to read as follows:

16 E. This article does not apply to:

17 (1) a corporation that solicits funds only from its  
18 members;

19 (2) a corporation which does not intend to solicit and  
20 receive and does not actually raise or receive contributions from  
21 sources other than its own membership in excess of \$10,000 during a  
22 fiscal year;

23 (3) a proprietary school that has received a  
24 certificate of approval from the State Commissioner of Education, a  
25 public institution of higher education and foundations chartered  
26 for the benefit of such institutions or any component part thereof,  
27 a private institution of higher education with a certificate of



1 authority to grant a degree issued by the Coordinating Board, Texas  
2 College and University System, or an elementary or secondary  
3 school, except that the article does apply to an open-enrollment  
4 charter school;

5 (4) religious institutions which shall be limited to  
6 churches, ecclesiastical or denominational organizations, or other  
7 established physical places for worship at which religious services  
8 are the primary activity and such activities are regularly  
9 conducted;

10 (5) a trade association or professional society whose  
11 income is principally derived from membership dues and assessments,  
12 sales, or services;

13 (6) any insurer licensed and regulated by the State  
14 Board of Insurance;

15 (7) an organization whose charitable activities  
16 relate to public concern in the conservation and protection of  
17 wildlife, fisheries, and allied natural resources;

18 (8) an alumni association of a public or private  
19 institution of higher education in this state, provided that such  
20 association is recognized and acknowledged by the institution as  
21 its official alumni association.

22 SECTION 11. This Act applies beginning with the 2003-2004  
23 school year.

24 SECTION 12. This Act takes effect immediately if it  
25 receives a vote of two-thirds of all the members elected to each  
26 house, as provided by Section 39, Article III, Texas Constitution.  
27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect September 1, 2003.