

By: Harless

H.B. No. 936

A BILL TO BE ENTITLED

AN ACT

relating to the establishment, operation, and funding of open-enrollment charter schools.

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

SECTION 1. Section 12.101, Education Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows:

(b) The State Board of Education, after thoroughly investigating and evaluating an applicant, may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, curriculum development and implementation, and operational standards adopted by the commissioner under this subchapter. The State Board of Education may not grant [~~a total of~~] more than 10 new [~~215~~] charters for an open-enrollment charter school each state fiscal year.

(b-1) A charter holder may establish one or more new open-enrollment charter school campuses under a charter without applying for authorization from the State Board of Education if:

(1) 90 percent or more of the open-enrollment charter school campuses operating under the charter have been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for the two preceding school years;

(2) either no campus operating under the charter has been assigned an unacceptable performance rating as provided by

1 Subchapter C, Chapter 39, for any two of the three preceding school
2 years or such a campus has been closed;

3 (3) the charter holder satisfies generally accepted
4 accounting standards of fiscal management;

5 (4) the charter holder provides written notice, in the
6 time, manner, and form provided by commissioner rule, to the State
7 Board of Education and the commissioner of the establishment of any
8 campus under this subsection; and

9 (5) not later than the 90th day after the date the
10 charter holder provides written notice under Subdivision (4), the
11 commissioner does not provide written notice to the charter holder
12 disapproving a new campus under this section.

13 (b-2) This subsection expires January 1, 2015. For purposes
14 of Subsection (b-1):

15 (1) an open-enrollment charter school campus rated as
16 academically acceptable or higher under Subchapter D, Chapter 39,
17 as that subchapter existed January 1, 2009, for the 2009-2010 or
18 2010-2011 school year is considered to have been assigned an
19 acceptable performance rating for the applicable school year; and

20 (2) an open-enrollment charter school campus rated as
21 academically unacceptable under Subchapter D, Chapter 39, as that
22 subchapter existed January 1, 2009, for the 2008-2009, 2009-2010,
23 or 2010-2011 school year is considered to have been assigned an
24 unacceptable performance rating for the applicable school year.

25 SECTION 2. Subchapter D, Chapter 12, Education Code, is
26 amended by adding Section 12.1011 to read as follows:

27 Sec. 12.1011. AUTHORIZATION FOR GRANT OF CHARTERS FOR

1 SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) The
2 State Board of Education may grant under Section 12.101 a charter on
3 the application of an eligible entity for an open-enrollment
4 charter school intended primarily to serve students with
5 disabilities, including students with autism. A charter granted
6 under this section is not considered for purposes of the limit on
7 the number of open-enrollment charter schools imposed by Section
8 12.101(b).

9 (b) For purposes of the applicability of state and federal
10 law, including a law prescribing requirements concerning students
11 with disabilities, an open-enrollment charter school described by
12 Subsection (a) is considered the same as any other school for which
13 a charter is granted under Section 12.101.

14 (c) To the fullest extent permitted under federal law, a
15 parent of a student with a disability may choose to enroll the
16 parent's child in an open-enrollment charter school described by
17 Subsection (a) regardless of whether a disproportionate number of
18 the school's students are students with disabilities.

19 (d) This section does not authorize an open-enrollment
20 charter school to discriminate in admissions or in the services
21 provided based on the presence, absence, or nature of an
22 applicant's or student's disability.

23 SECTION 3. Section 12.104, Education Code, is amended by
24 amending Subsection (b) and adding Subsection (e) to read as
25 follows:

26 (b) An open-enrollment charter school is subject to:

27 (1) a provision of this title establishing a criminal

1 offense; and

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

5 (A) the Public Education Information Management
6 System (PEIMS) to the extent necessary to monitor compliance with
7 this subchapter as determined by the commissioner;

8 (B) criminal history records under Subchapter C,
9 Chapter 22;

10 (C) reading instruments and accelerated reading
11 instruction programs under Section 28.006;

12 (D) accelerated instruction under Section
13 28.0211;

14 (E) high school graduation requirements under
15 Section 28.025;

16 (F) special education programs under Subchapter
17 A, Chapter 29;

18 (G) bilingual education under Subchapter B,
19 Chapter 29;

20 (H) prekindergarten programs under Subchapter E,
21 Chapter 29;

22 (I) extracurricular activities under Section
23 33.081;

24 (J) discipline management practices or behavior
25 management techniques under Section 37.0021;

26 (K) health and safety under Chapter 38;

27 (L) public school accountability under

1 Subchapters B, C, D, E, and J, Chapter 39, except as provided by
2 Subsection (e);

3 (M) the requirement under Section 21.006 to
4 report an educator's misconduct; and

5 (N) intensive programs of instruction under
6 Section 28.0213.

7 (e) In computing dropout and completion rates for an
8 open-enrollment charter school, the commissioner may:

9 (1) exclude students who are ordered by a court to
10 attend a high school equivalency certificate program but who have
11 not yet earned a high school equivalency certificate; and

12 (2) exclude students who were previously reported to
13 the state as dropouts.

14 SECTION 4. Section 12.1101, Education Code, is amended to
15 read as follows:

16 Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION OR
17 ESTABLISHMENT OF CAMPUS. The commissioner by rule shall adopt a
18 procedure for providing notice to the following persons on receipt
19 by the State Board of Education of an application for a charter for
20 an open-enrollment charter school under Section 12.110 or on
21 receipt by the board and the commissioner of notice of the
22 establishment of a campus as authorized under Section 12.101(b-1):

23 (1) the board of trustees of each school district from
24 which the proposed open-enrollment charter school or campus is
25 likely to draw students, as determined by the commissioner; and

26 (2) each member of the legislature that represents the
27 geographic area to be served by the proposed school or campus, as

1 determined by the commissioner.

2 SECTION 5. Section 12.111(a), Education Code, is amended to
3 read as follows:

4 (a) Each charter granted under this subchapter must:

5 (1) describe the educational program to be offered,
6 which must include the required curriculum as provided by Section
7 28.002;

8 (2) specify the period for which the charter or,
9 consistent with Section 12.116(b-1), any charter renewal is valid;

10 (3) provide that continuation or renewal of the
11 charter is contingent on the status of the charter as provided by
12 Section 12.116(b-1) [~~acceptable student performance on assessment~~
13 ~~instruments adopted under Subchapter B, Chapter 39, and on~~
14 ~~compliance with any accountability provision specified by the~~
15 ~~charter, by a deadline or at intervals specified by the charter~~];

16 (4) [~~establish the level of student performance that~~
17 ~~is considered acceptable for purposes of Subdivision (3),~~

18 [~~(5)~~] specify any basis, in addition to a basis
19 specified by this subchapter, on which the charter may be placed on
20 probation or revoked [~~or on which renewal of the charter may be~~
21 ~~denied~~];

22 (5) [~~(6)~~] prohibit discrimination in admission policy
23 on the basis of sex, national origin, ethnicity, religion,
24 disability, academic, artistic, or athletic ability, or the
25 district the child would otherwise attend in accordance with this
26 code, although the charter may:

27 (A) provide for the exclusion of a student who

1 has a documented history of a criminal offense, a juvenile court
2 adjudication, or discipline problems under Subchapter A, Chapter
3 37; and

4 (B) provide for an admission policy that requires
5 a student to demonstrate artistic ability if the school specializes
6 in performing arts;

7 (6) [~~(7)~~] specify the grade levels to be offered;

8 (7) [~~(8)~~] describe the governing structure of the
9 program, including:

10 (A) the officer positions designated;

11 (B) the manner in which officers are selected and
12 removed from office;

13 (C) the manner in which members of the governing
14 body of the school are selected and removed from office;

15 (D) the manner in which vacancies on that
16 governing body are filled;

17 (E) the term for which members of that governing
18 body serve; and

19 (F) whether the terms are to be staggered;

20 (8) [~~(9)~~] specify the powers or duties of the
21 governing body of the school that the governing body may delegate to
22 an officer;

23 (9) [~~(10)~~] specify the manner in which the school will
24 distribute to parents information related to the qualifications of
25 each professional employee of the program, including any
26 professional or educational degree held by each employee, a
27 statement of any certification under Subchapter B, Chapter 21, held

1 by each employee, and any relevant experience of each employee;

2 (10) [~~(11)~~] describe the process by which the person
3 providing the program will adopt an annual budget;

4 (11) [~~(12)~~] describe the manner in which an annual
5 audit of the financial and programmatic operations of the program
6 is to be conducted, including the manner in which the person
7 providing the program will provide information necessary for the
8 school district in which the program is located to participate, as
9 required by this code or by State Board of Education rule, in the
10 Public Education Information Management System (PEIMS);

11 (12) [~~(13)~~] describe the facilities to be used;

12 (13) [~~(14)~~] describe the geographical area served by
13 the program; and

14 (14) [~~(15)~~] specify any type of enrollment criteria to
15 be used.

16 SECTION 6. Section 12.115, Education Code, is amended to
17 read as follows:

18 Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON
19 PROBATION, OR REVOCATION[~~, OR DENIAL OF RENEWAL~~]. (a) The
20 commissioner may modify, place on probation, or revoke[~~, or deny~~
21 ~~renewal of~~] the charter of an open-enrollment charter school if the
22 commissioner determines that the charter holder:

23 (1) committed a material violation of the charter,
24 including failure to satisfy accountability provisions prescribed
25 by the charter;

26 (2) failed to satisfy generally accepted accounting
27 standards of fiscal management;

1 (3) failed to protect the health, safety, or welfare
2 of the students enrolled at the school; or

3 (4) failed to comply with this subchapter or another
4 applicable law or rule.

5 (b) The action the commissioner takes under Subsection (a)
6 shall be based on:

7 (1) the best interest of the school's students;

8 (2) [✓] the severity of the violation[✓] and any
9 previous violation the school has committed; and

10 (3) the accreditation status of the school under
11 Subchapter C, Chapter 39.

12 SECTION 7. Section 12.116, Education Code, is amended by
13 adding Subsections (a-1) and (b-1) and amending Subsection (b) to
14 read as follows:

15 (a-1) The commissioner shall revoke the charter of an
16 open-enrollment charter school in accordance with the procedure
17 adopted under Subsection (a) if, after all information required for
18 determining a performance rating has been considered, the
19 commissioner determines that the school is insolvent as a result of
20 recovery of overallocated state funds under Section 42.258(a).

21 (b) The commissioner shall revoke the charter of an
22 open-enrollment charter school without a hearing if each campus
23 operated under the school's charter has been ordered closed under
24 Section 39.107 [~~procedure adopted under Subsection (a) must provide~~
25 ~~an opportunity for a hearing to the charter holder and to parents~~
26 ~~and guardians of students in the school. A hearing under this~~
27 ~~subsection must be held at the facility at which the program is~~

1 ~~operated~~].

2 (b-1) The procedure adopted under Subsection (a) for
3 denying renewal of the charter of an open-enrollment charter school
4 must provide that the charter automatically renews unless the
5 school's charter is revoked under Subchapter E, Chapter 39, before
6 the expiration of a charter term. The term for which a charter is
7 renewed shall not be less than 10 years.

8 SECTION 8. Section 12.118(a), Education Code, is amended to
9 read as follows:

10 (a) The commissioner shall designate an impartial
11 organization with experience in evaluating school choice programs
12 to conduct, under the supervision of the commissioner, an annual
13 evaluation of open-enrollment charter schools.

14 SECTION 9. Section 12.119(c), Education Code, is amended to
15 read as follows:

16 (c) On request, the State Board of Education shall provide
17 the information required by this section and Section 12.111(a)(7)
18 [~~12.111(8)~~] to a member of the public. The board may charge a
19 reasonable fee to cover the board's cost in providing the
20 information.

21 SECTION 10. Section 12.113(b), Education Code, is repealed.

22 SECTION 11. This Act applies beginning with the 2011-2012
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, 2011.