

Amend CSSB 2 (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter D, Chapter 11, Education Code, is amended by adding Sections 11.1542 and 11.1543 to read as follows:

Sec. 11.1542. OPEN-ENROLLMENT CHARTER SCHOOL OFFER FOR DISTRICT FACILITY. (a) The board of trustees of an independent school district that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility must give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board of trustees, before offering the facility for sale or lease or to any other specific entity.

(b) This section does not require the board of trustees of a school district to accept an offer made by an open-enrollment charter school.

Sec. 11.1543. CHARTER SCHOOL PAYMENT FOR FACILITIES USE OR FOR SERVICES. (a) An independent school district may not require a campus or campus program that has been granted a charter under Subchapter C, Chapter 12, and that is the result of the conversion of the status of an existing school district campus to pay rent for or to purchase a facility in order to use the facility.

(b) An independent school district may not require a campus or campus program described by Subsection (a) or an open-enrollment charter school to pay for any service provided by the district under a contract between the district and the campus, campus program, or open-enrollment charter school an amount that is greater than the amount of the actual costs to the district of providing the service.

SECTION 2. Subchapter C, Chapter 12, Education Code, is amended by adding Section 12.0522 to read as follows:

Sec. 12.0522. DISTRICT CHARTER AUTHORIZATION. (a) Notwithstanding Section 12.052, in the manner provided by this section, the board of trustees of a school district or the governing body of a home-rule school district may grant a district charter to a campus to the extent authorized under this section.

(b) Except as otherwise provided by this subsection or

Subsection (c), a district charter may be granted under this section only to one or more campuses serving in total a percentage of the district's student enrollment equal to not more than 15 percent of the district's student enrollment for the preceding school year. The percentage limit may not prevent a district from granting a district charter to at least one feeder pattern of schools, including an elementary, middle or junior high, and high school.

(c) A district charter may be granted to any campus that has received the lowest performance rating under Subchapter C, Chapter 39.

(d) Subchapter D applies to a campus granted a district charter under this section as though the campus were granted a charter under Subchapter D, and the campus is considered an open-enrollment charter school.

(e) A charter granted under this section is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by Section 12.101.

(f) The commissioner may adopt rules as necessary for the administration of this section.

SECTION 3. Section 12.055, Education Code, is amended to read as follows:

Sec. 12.055. APPLICABILITY OF LAWS AND RULES TO CAMPUS OR PROGRAM GRANTED CHARTER. (a) A campus or program for which a charter is granted under this subchapter is subject to federal and state laws and rules governing public schools, except that the campus or program is subject to this code and rules adopted under this code only to the extent the applicability to a campus or program for which a charter is granted under this subchapter of a provision of this code or a rule adopted under this code is specifically provided.

(b) A school district may contract with another district or an open-enrollment charter school for services at a campus charter. An employee of the district or open-enrollment charter school providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas if the employee would be eligible for membership and benefits

if holding the same position at the employing district or open-enrollment charter school.

SECTION 4. Section 12.056(b), Education Code, is amended to read as follows:

(b) A campus or program for which a charter is granted under this subchapter is subject to:

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

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

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

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

(C) high school graduation under Section 28.025;

(D) special education programs under Subchapter A, Chapter 29;

(E) bilingual education under Subchapter B, Chapter 29;

(F) prekindergarten programs under Subchapter E, Chapter 29;

(G) extracurricular activities under Section 33.081;

(H) health and safety under Chapter 38; and

(I) public school accountability under Subchapters B, C, D, E, F, and J, Chapter 39.

SECTION 5. Section 12.057, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) An employee of a charter holder, as defined by Section 12.1012, who is employed on a campus or in a program granted a charter under this subchapter and who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee of an independent school district who is employed on a regularly operating campus or in a regularly operating program.

SECTION 6. Section 12.059, Education Code, is amended to read as follows:

Sec. 12.059. CONTENT. Each charter granted under this subchapter must:

(1) describe the educational program to be offered, which may be a general or specialized program;

(2) provide that continuation of the charter is contingent on satisfactory student performance under Subchapter B, Chapter 39, satisfactory financial performance under Subchapter D, Chapter 39, and ~~[on]~~ compliance with other applicable accountability provisions under Chapter 39;

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

(4) prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;

(5) describe the governing structure of the campus or program;

(6) specify any procedure or requirement, in addition to those under Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and

(7) describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the school district in which it is located to participate, as required by this code or by commissioner ~~[State Board of Education]~~ rule, in the Public Education Information Management System (PEIMS).

SECTION 7. Section 12.101, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-0), (b-1), (b-2), (b-3), (b-4), (b-5), and (b-6) to read as follows:

(a) In accordance with this subchapter, the commissioner ~~[State Board of Education]~~ may grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or

(4) a governmental entity.

(b) After thoroughly investigating and evaluating an applicant, the commissioner [~~The State Board of Education~~] may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:

(1) has not within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned; or

(2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned.

(b-0) The commissioner shall notify the State Board of Education of each charter the commissioner proposes to grant under this subchapter. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect. The board may not deliberate or vote on any grant of a charter that is not proposed by the commissioner.

(b-1) In granting charters for open-enrollment charter schools, the commissioner [~~The State Board of Education~~] may not grant a total of more than:

(1) 215 charters through the fiscal year ending August 31, 2014;

(2) 225 charters beginning September 1, 2014;

(3) 240 charters beginning September 1, 2015;

(4) 255 charters beginning September 1, 2016;

(5) 275 charters beginning September 1, 2017;

(6) 295 charters beginning September 1, 2018;

(7) 315 charters beginning September 1, 2019; or

(8) 330 charters beginning September 1, 2020 [~~for an open-enrollment charter school~~].

(b-2) Beginning September 1, 2021, the total number of charters for open-enrollment charter schools that may be granted is the sum of the number of charters authorized to be granted as of the preceding fiscal year plus 10 additional charters.

(b-3) The commissioner may not grant more than one charter for an open-enrollment charter school to any charter holder. The commissioner may consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter held by a single charter holder with the written consent to the terms of consolidation by or at the request of each charter holder affected by the consolidation.

(b-4) A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B, Chapter 39, may establish one or more new open-enrollment charter school campuses under an existing charter held by the charter holder if:

(1) the charter holder is currently evaluated under the standard accountability procedures for evaluation under Chapter 39 and received a district rating in the highest or second highest performance rating category under Subchapter C, Chapter 39, for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in the highest or second highest performance rating category and with no campus with a rating in the lowest performance rating category in the most recent ratings;

(2) the charter holder provides written notice to the commissioner of the establishment of any campus under this

subsection in the time, manner, and form provided by rule of the commissioner; and

(3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder disapproving a new campus under this section.

(b-5) The initial term of a charter granted under this section is five years.

(b-6) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

SECTION 8. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1011 to read as follows:

Sec. 12.1011. CHARTER AUTHORIZATION FOR HIGH-PERFORMING ENTITIES; LIMIT NOT APPLICABLE. (a) Notwithstanding Section 12.101(b), the commissioner may grant a charter for an open-enrollment charter school to an applicant that is:

(1) an eligible entity under Section 12.101(a)(3) that proposes to operate the charter school program of a charter operator that operates one or more charter schools in another state and with which the eligible entity is affiliated and, as determined by the commissioner in accordance with commissioner rule, has performed at a level of performance comparable to performance under the highest or second highest performance rating category under Subchapter C, Chapter 39; or

(2) an entity that has operated one or more charter schools established under this subchapter or Subchapter C or E and, as determined by the commissioner in accordance with commissioner rule, has performed in the highest or second highest performance rating category under Subchapter C, Chapter 39.

(b) A charter holder granted a charter for an open-enrollment charter school under Subsection (a) may vest management of corporate affairs in a member entity provided that the member entity may change the members of the governing body of the charter holder before the expiration of a member's term only

with the express written approval of the commissioner.

(c) The initial term of a charter granted under this section is five years.

(d) A charter granted under this section is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by Section 12.101.

(e) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories under Subchapter C, Chapter 39.

SECTION 9. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1013 to read as follows:

Sec. 12.1013. CHARTER AUTHORIZER ACCOUNTABILITY. (a) The commissioner shall annually report under Subchapters J and K, Chapter 39, the performance of open-enrollment charter schools by authorizer compared to campus charters and matched traditional campuses based on student achievement indicators adopted under Section 39.053.

(b) The format of the report must enable the public to distinguish and compare the performance of each type of public school by classifying the schools as follows:

(1) open-enrollment charters granted by the State Board of Education;

(2) open-enrollment charters granted by the commissioner;

(3) charters granted by school districts; and

(4) matched traditional campuses.

(c) The report must include the performance of each public school in each class described by Subsection (b) as measured by the student achievement indicators adopted under Section 39.053.

(d) The report must also:

(1) aggregate and compare the performance of open-enrollment charter schools granted charters by the State Board of Education, open-enrollment charter schools granted charters by the commissioner, campuses and programs granted charters by school districts, and matched traditional campuses; and

(2) rate the aggregate performance of elementary,

middle or junior high, and high schools within each class described by Subsection (b) as indicated by the composite rating that would be assigned to the class of elementary, middle or junior high, and high schools if the students attending all schools in that class were cumulatively enrolled in one elementary, middle or junior high, or high school.

SECTION 10. Section 12.102, Education Code, is amended to read as follows:

Sec. 12.102. AUTHORITY UNDER CHARTER. An open-enrollment charter school:

(1) shall provide instruction to students at one or more elementary or secondary grade levels as provided by the charter;

(2) is governed under the governing structure described by the charter;

(3) retains authority to operate under the charter to the extent authorized under Sections 12.1141 and 12.115 and Subchapter E, Chapter 39 [~~contingent on satisfactory student performance as provided by the charter in accordance with Section 12.111~~]; and

(4) does not have authority to impose taxes.

SECTION 11. Section 12.104(b), Education Code, is amended to read as follows:

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

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

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

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

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

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

(D) accelerated instruction under Section

28.0211;

(E) high school graduation requirements under Section 28.025;

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

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

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

(I) extracurricular activities under Section 33.081;

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

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, E, F, G, and J, Chapter 39;

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

(N) intensive programs of instruction under Section 28.0213.

SECTION 12. Section 12.1051, Education Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) With respect to the operation of an open-enrollment charter school, except as provided by Subsection (c), any requirement in Chapter 551 or 552, Government Code, or another law that concerns open meetings or the availability of information, that applies to a school district, the board of trustees of a school district, or public school students applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or students attending an open-enrollment charter school.

(c) Notwithstanding Subchapter F, Chapter 551, Government Code, the commissioner shall provide by rule for meetings by telephone conference call or video conference call where a majority of the quorum of the governing body of a charter holder or charter school is not physically present at one location of the meeting.

The rule may apply only to meetings of the governing body of a charter holder or charter school with its central administrative offices in a state other than this state.

SECTION 13. Section 12.1053(a), Education Code, is amended to read as follows:

(a) This section applies to an open-enrollment charter school unless the school's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the commissioner [~~State Board of Education~~].

SECTION 14. Section 12.1057(a), Education Code, is amended to read as follows:

(a) An employee of an open-enrollment charter school [~~operating under a charter granted by the State Board of Education~~] who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

SECTION 15. Sections 12.110(a), (c), and (d), Education Code, are amended to read as follows:

(a) The commissioner [~~State Board of Education~~] shall adopt:

(1) an application form and a procedure that must be used to apply for a charter for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to grant a charter.

(c) As part of the application procedure, the commissioner [~~board~~] may require a petition supporting a charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(d) The commissioner shall [~~board may~~] approve or deny an application based on:

(1) documented evidence collected through the application review process;

(2) merit; and

(3) other criteria as adopted by the commissioner, which [~~it adopts. The criteria the board adopts~~] must include:

(A) criteria relating to the capability of the applicant to carry out the responsibilities provided by the charter and the likelihood that the applicant will operate a school of high quality;

(B) [~~(1)~~] criteria relating to improving student performance and encouraging innovative programs; and

(C) [~~(2)~~] a statement from any school district whose enrollment is likely to be affected by the open-enrollment charter school, including information relating to any financial difficulty that a loss in enrollment may have on the district.

SECTION 16. Section 12.1101, Education Code, is amended to read as follows:

Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the commissioner [~~State Board of Education~~] of an application for a charter for an open-enrollment charter school under Section 12.110 or of notice of the establishment of a campus as authorized under Section 12.101(b-4):

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

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

SECTION 17. Section 12.111(a), Education Code, is amended to read as follows:

(a) Each charter granted under this subchapter must:

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

(2) [~~specify the period for which the charter or any charter renewal is valid,~~

~~[~~(3)~~] provide that continuation [~~or renewal~~] of the charter is contingent on the status of the charter as determined under Section 12.1141 or 12.115 or under Subchapter E, Chapter 39 [~~acceptable student performance on assessment instruments adopted~~~~

~~under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter];~~

(3) specify the academic, operational, and financial performance expectations by which a school operating under the charter will be evaluated, which must include applicable elements of the performance frameworks adopted under Section 12.1181
~~[(4) establish the level of student performance that is considered acceptable for purposes of Subdivision (3)];~~

(4) ~~[(5)]~~ specify:

(A) any basis, in addition to a basis specified by this subchapter or Subchapter E, Chapter 39, on which the charter may be [placed on probation or] revoked, [or on which] renewal of the charter may be denied, or the charter may be allowed to expire;
and

(B) the standards for evaluation of a school operating under the charter for purposes of charter renewal, denial of renewal, expiration, revocation, or other intervention in accordance with Section 12.1141 or 12.115 or Subchapter E, Chapter 39, as applicable;

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

(A) provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37; and

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

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

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

(A) the officer positions designated;

(B) the manner in which officers are selected and

removed from office;

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

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

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

(F) whether the terms are to be staggered;

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

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

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

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

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

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

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

(15) provide information, as determined by the commissioner, relating to any management company that will provide management services to a school operating under the charter; and

(16) specify that the governing body of an open-enrollment charter school accepts and may not delegate

ultimate responsibility for the school, including the school's academic performance and financial and operational viability, and is responsible for overseeing any management company providing management services for the school and for holding the management company accountable for the school's performance.

SECTION 18. Section 12.112, Education Code, is amended to read as follows:

Sec. 12.112. FORM. A charter for an open-enrollment charter school shall be in the form of a written contract signed by the commissioner [~~chair of the State Board of Education~~] and the chief operating officer of the school.

SECTION 19. Section 12.113(a), Education Code, is amended to read as follows:

(a) Each charter the commissioner [~~State Board of Education~~] grants for an open-enrollment charter school must:

- (1) satisfy this subchapter; and
- (2) include the information that is required under Section 12.111 consistent with the information provided in the application and any modification the commissioner [~~board~~] requires.

SECTION 20. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1141 to read as follows:

Sec. 12.1141. RENEWAL OF CHARTER; DENIAL OF RENEWAL; EXPIRATION. (a) The commissioner shall develop and by rule adopt a procedure for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school at the end of the term of the charter. The procedure must include consideration of the performance under Chapter 39 of the charter holder and each campus operating under the charter and must include three distinct processes, which must be expedited renewal, discretionary consideration of renewal or denial of renewal, and expiration. To renew a charter at the end of the term, the charter holder must submit a petition for renewal to the commissioner in the time and manner established by commissioner rule.

(b) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for expedited renewal of the charter, the

charter automatically renews unless, not later than the 30th day after the date the charter holder submits the petition, the commissioner provides written notice to the charter holder that expedited renewal of the charter is denied. The commissioner may not deny expedited renewal of a charter if:

(1) the charter holder has been assigned the highest or second highest performance rating under Subchapter C, Chapter 39, for the three preceding school years;

(2) the charter holder has been assigned a financial performance accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better for the three preceding school years; and

(3) no campus operating under the charter has been assigned the lowest performance rating under Subchapter C, Chapter 39, for the three preceding school years or such a campus has been closed.

(c) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter and the charter does not meet the criteria for expedited renewal under Subsection (b) or for expiration under Subsection (d), the commissioner shall use the discretionary consideration process. The commissioner's decision under the discretionary consideration process must take into consideration the results of annual evaluations under the performance frameworks established under Section 12.1181. The renewal of the charter of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39 shall be considered under the discretionary consideration process regardless of the performance ratings under Subchapter C, Chapter 39, of the open-enrollment charter school or of any campus operating under the charter, except that if the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance that is lower than satisfactory for any three of the five preceding school years, the commissioner shall allow the charter to expire under Subsection (d). In considering the renewal of the charter of an

open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39, such as a dropout recovery school or a school providing education within a residential treatment facility, the commissioner shall use academic criteria established by commissioner rule that are appropriate to measure the specific goals of the school. The criteria established by the commissioner shall recognize growth in student achievement as well as educational attainment. For purposes of this subsection, the commissioner shall designate as a dropout recovery school an open-enrollment charter school or a campus of an open-enrollment charter school:

(1) that serves students in grades 9 through 12 and has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and

(2) that meets the eligibility requirements for and is registered under alternative education accountability procedures adopted by the commissioner.

(d) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter, the commissioner may not renew the charter and shall allow the charter to expire if:

(1) the charter holder has been assigned the lowest performance rating under Subchapter C, Chapter 39, for any three of the five preceding school years;

(2) the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance that is lower than satisfactory for any three of the five preceding school years;

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for any three of the five preceding school years; or

(4) any campus operating under the charter has been assigned the lowest performance rating under Subchapter C, Chapter

39, for the three preceding school years and such a campus has not been closed.

(e) Notwithstanding any other law, a determination by the commissioner under Subsection (d) is final and may not be appealed.

(f) Not later than the 90th day after the date on which a charter holder submits a petition for renewal of a charter for an open-enrollment charter school at the end of the term of the charter, the commissioner shall provide written notice to the charter holder, in accordance with commissioner rule, of the basis on which the charter qualified for expedited renewal, discretionary consideration, or expiration, and of the commissioner's decision regarding whether to renew the charter, deny renewal of the charter, or allow the charter to expire.

(g) Except as provided by Subsection (e), a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school is subject to review by the State Office of Administrative Hearings. Notwithstanding Chapter 2001, Government Code:

(1) the administrative law judge shall uphold a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school unless the judge finds the decision is arbitrary and capricious or clearly erroneous; and

(2) a decision of the administrative law judge under this subsection is final and may not be appealed.

(h) If a charter holder submits a petition for renewal of a charter for an open-enrollment charter school, notwithstanding the expiration date of the charter, the charter term is extended until the commissioner has provided notice to the charter holder of the renewal, denial of renewal, or expiration of the charter.

(i) The term of a charter renewed under this section is 10 years for each renewal.

(j) The commissioner shall adopt rules to modify criteria for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

SECTION 21. Section 12.115, Education Code, is amended to

read as follows:

Sec. 12.115. BASIS FOR CHARTER [~~MODIFICATION, PLACEMENT ON PROBATION,~~] REVOCAION [~~7~~] OR MODIFICATION OF GOVERNANCE [~~DENIAL OF RENEWAL~~]. (a) Except as provided by Subsection (c), the [~~The~~] commissioner shall [~~may modify, place on probation,~~] revoke [~~7, or deny renewal of~~] the charter of an open-enrollment charter school or reconstitute the governing body of the charter holder if the commissioner determines that the charter holder:

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

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

(3) failed to protect the health, safety, or welfare of the students enrolled at the school; [~~or~~]

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

(5) failed to satisfy the performance framework standards adopted under Section 12.1181; or

(6) is imminently insolvent as determined by the commissioner in accordance with commissioner rule.

(b) The action the commissioner takes under Subsection (a) shall be based on the best interest of the open-enrollment charter school's students, the severity of the violation, [~~and~~ any previous violation the school has committed, and the accreditation status of the school.

(c) Except as provided by Subsection (d), the commissioner shall revoke the charter of an open-enrollment charter school if:

(1) the charter holder has been assigned an unacceptable performance rating under Subchapter C, Chapter 39, for the three preceding school years;

(2) the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance lower than satisfactory for the three preceding school years; or

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for

the three preceding school years.

(d) Subsections (c)(1) and (3) do not apply to a charter holder registered under the agency's alternative education accountability procedures for evaluation under Chapter 39.

(e) This section does not limit the authority of the attorney general to take any action authorized by law.

(f) A charter holder rated as academically unacceptable under Subchapter D, Chapter 39, as that subchapter existed on January 1, 2009, for the 2010-2011 school year is considered to have been assigned an unacceptable performance rating for that school year under Subsection (c)(1). This subsection expires September 1, 2015.

SECTION 22. Section 12.116, Education Code, is amended to read as follows:

Sec. 12.116. PROCEDURE FOR [~~MODIFICATION, PLACEMENT ON PROBATION,~~] REVOCATION[~~7~~] OR MODIFICATION OF GOVERNANCE [~~DENIAL OF RENEWAL~~]. (a) The commissioner shall adopt an informal [~~a~~] procedure to be used for [~~modifying, placing on probation,~~] revoking[~~7, or denying renewal of~~] the charter of an open-enrollment charter school or for reconstituting the governing body of the charter holder as authorized by Section 12.115.

(b) [~~The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the charter holder and to parents and guardians of students in the school. A hearing under this subsection must be held at the facility at which the program is operated.~~

[~~(c)~~] Chapter 2001, Government Code, does not apply to a procedure [~~hearing~~] that is related to a [~~modification, placement on probation,~~] revocation[~~7~~] or modification of governance [~~denial of renewal~~] under this subchapter.

(c) A decision by the commissioner to revoke a charter is subject to review by the State Office of Administrative Hearings. Notwithstanding Chapter 2001, Government Code:

(1) the administrative law judge shall uphold a decision by the commissioner to revoke a charter unless the judge finds the decision is arbitrary and capricious or clearly erroneous; and

(2) a decision of the administrative law judge under this subsection is final and may not be appealed.

(d) If the commissioner revokes the charter of an open-enrollment charter school, the commissioner may:

(1) manage the school until alternative arrangements are made for the school's students; and

(2) assign operation of one or more campuses formerly operated by the charter holder who held the revoked charter to a different charter holder who consents to the assignment.

SECTION 23. Section 12.1161(a), Education Code, is amended to read as follows:

(a) If [~~Except as provided by Subsection (b), if~~] the commissioner revokes or denies the renewal of a charter of an open-enrollment charter school~~[7]~~ or [~~if~~] an open-enrollment charter school surrenders its charter, the school may not:

(1) continue to operate under this subchapter; or

(2) receive state funds under this subchapter.

SECTION 24. Section 12.1163(c), Education Code, is amended to read as follows:

(c) Unless the commissioner has specific cause to conduct an additional audit, the commissioner may not conduct more than one on-site audit [~~under Section 12.1163~~] during any fiscal year, including any financial and administrative records. For purposes of this subsection, an audit of a charter holder or management company associated with an open-enrollment charter school is not considered an audit of the school.

SECTION 25. Section 12.1164(a), Education Code, is amended to read as follows:

(a) The commissioner must notify the Teacher Retirement System of Texas in writing of the revocation, denial of renewal, expiration, or surrender of a charter under this subchapter not later than the 10th business day after the date of the event.

SECTION 26. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1181 to read as follows:

Sec. 12.1181. PERFORMANCE FRAMEWORKS; ANNUAL EVALUATIONS.

(a) The commissioner shall develop and by rule adopt performance frameworks that establish standards by which to measure the

performance of an open-enrollment charter school. The commissioner shall develop and by rule adopt separate, specific performance frameworks by which to measure the performance of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39. The performance frameworks shall be based on national best practices that charter school authorizers use in developing and applying standards for charter school performance. In developing the performance frameworks, the commissioner shall solicit advice from charter holders, the members of the governing bodies of open-enrollment charter schools, and other interested persons.

(b) The performance frameworks may include a variety of standards. In evaluating an open-enrollment charter school, the commissioner shall measure school performance against an established set of quality standards developed and adopted by the commissioner.

(c) Each year, the commissioner shall evaluate the performance of each open-enrollment charter school based on the applicable performance frameworks adopted under Subsection (a).

SECTION 27. Section 12.119, Education Code, is amended to read as follows:

Sec. 12.119. BYLAWS; ANNUAL REPORT. (a) A charter holder shall file with the commissioner [~~State Board of Education~~] a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the commissioner [~~board~~].

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

(1) the name, address, and telephone number of each officer and member of the governing body of the open-enrollment charter school; and

(2) the amount of annual compensation the open-enrollment charter school pays to each officer and member of

the governing body.

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

SECTION 28. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1211 to read as follows:

Sec. 12.1211. NAMES OF MEMBERS OF GOVERNING BODY LISTED ON WEBSITE. An open-enrollment charter school shall list the names of the members of the governing body on the home page of the school's Internet website.

SECTION 29. Section 12.122(a), Education Code, is amended to read as follows:

(a) Notwithstanding the applicable provisions of the Business Organizations Code [~~Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)~~] or other law, on request of the commissioner, the attorney general may bring suit against a member of the governing body of an open-enrollment charter school for breach of a fiduciary duty by the member, including misapplication of public funds.

SECTION 30. Section 12.128(a), Education Code, is amended to read as follows:

(a) Property purchased or leased with funds received by a charter holder under Section 12.106 after September 1, 2001:

(1) is considered to be public property for all purposes under state law;

(2) is property of this state held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and

(3) may be used only for a purpose for which a school district may use school district property.

SECTION 31. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1231 to read as follows:

Sec. 12.1231. TRAINING FOR AGENCY EMPLOYEES. Not later than October 1, 2013, each agency employee assigned responsibility related to granting charters for open-enrollment charter schools or

providing oversight or monitoring of charter holders or open-enrollment charter schools must participate in training on charter school authorization, oversight, and monitoring provided by a nationally recognized organization of charter school authorizers identified by the commissioner. This section expires January 1, 2014.

SECTION 32. Sections 12.152 and 12.154, Education Code, are amended to read as follows:

Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this subchapter and Subchapter D, the commissioner [~~State Board of Education~~] may grant a charter on the application of:

(1) a public senior college or university for an open-enrollment charter school to operate on the campus of the public senior college or university or in the same county in which the campus of the public senior college or university is located; or

(2) a public junior college for an open-enrollment charter school to operate on the campus of the public junior college or in the same county in which the campus of the public junior college is located.

Sec. 12.154. CONTENT. (a) Notwithstanding Section 12.110(d), the commissioner [~~State Board of Education~~] may grant a charter under this subchapter to a public senior college or university only if the following criteria are satisfied in the public senior college's or university's application, as determined by the commissioner [~~State Board of Education~~]:

(1) the college or university charter school's educational program must include innovative teaching methods;

(2) the college or university charter school's educational program must be implemented under the direct supervision of a member of the teaching or research faculty of the public senior college or university;

(3) the faculty member supervising the college or university charter school's educational program must have substantial experience and expertise in education research, teacher education, classroom instruction, or educational administration;

(4) the college or university charter school's

educational program must be designed to meet specific goals described in the charter, including improving student performance, and each aspect of the program must be directed toward the attainment of the goals;

(5) the attainment of the college or university charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

(6) the financial operations of the college or university charter school must be supervised by the business office of the public senior college or university.

(b) Notwithstanding Section 12.110(d), the commissioner [~~State Board of Education~~] may grant a charter under this subchapter to a public junior college only if the following criteria are satisfied in the public junior college's application, as determined by the commissioner [~~State Board of Education~~]:

(1) the junior college charter school's educational program must be implemented under the direct supervision of a member of the faculty of the public junior college;

(2) the faculty member supervising the junior college charter school's educational program must have substantial experience and expertise in teacher education, classroom instruction, or educational administration;

(3) the junior college charter school's educational program must be designed to meet specific goals described in the charter, such as dropout recovery, and each aspect of the program must be directed toward the attainment of the goals;

(4) the attainment of the junior college charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

(5) the financial operations of the junior college charter school must be supervised by the business office of the junior college.

SECTION 33. Section 12.156(b), Education Code, is amended to read as follows:

(b) A charter granted under this subchapter is not

considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101 [~~12.101(b)~~].

SECTION 34. Section 39.152, Education Code, is amended to read as follows:

Sec. 39.152. REVIEW BY STATE OFFICE OF ADMINISTRATIVE HEARINGS: SANCTIONS. (a) A school district or open-enrollment charter school that intends to challenge a decision by the commissioner under this chapter to close the district or a district campus or the charter school or to pursue alternative management of a district campus or the charter school must appeal the decision under this section [~~the procedures provided for a contested case under Chapter 2001, Government Code~~].

(b) A challenge to a decision under this section is under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code. The commissioner shall adopt procedural rules for a challenge under this section.

(c) Notwithstanding other law:

(1) the State Office of Administrative Hearings shall conduct [~~provide~~] an expedited review of a challenge under this section;

(2) the administrative law judge shall issue a final order not later than the 30th day after the date on which the hearing is finally closed; [~~and~~]

(3) the decision of the administrative law judge is final and may not be appealed; and

(4) the decision of the administrative law judge may set an effective date for an action under this section.

SECTION 35. Section 221.0071(a), Human Resources Code, is amended to read as follows:

(a) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education [~~State Board of Education~~] may grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders under Section 51.12, 51.125, or 51.126, Family Code.

SECTION 36. Section 221.056(d), Human Resources Code, is amended to read as follows:

(d) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education [~~State Board of Education~~] shall grant a charter on the application of a residential treatment facility established under this section for a school chartered for the purposes of this section.

SECTION 37. The following provisions of the Education Code are repealed:

- (1) Section 12.113(b); and
- (2) Section 12.1161(b).

SECTION 38. This Act takes effect September 1, 2013.