

By: Harper-Brown

H.B. No. 3034

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), (b-2), and (b-3) 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 any financial, governing, and operational standards adopted by the commissioner under this subchapter. ~~The State Board of Education may not grant a total of more than 215 charters for an open-enrollment charter school each state fiscal year.~~

(b-1) A charter holder of an existing charter may establish one or more new open-enrollment charter school campuses under an existing charter if:

(1) Each campus operating under the charter has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for two consecutively preceding school years;

(2) The open enrollment charter school has been assigned a financial accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better;

(3) The charter holder provides written notice, in the

1 time, manner and form provided by commissioner rule to the  
2 commissioner of the establishment of any campus under this  
3 subsection; and

4 (4) Not later than the 60th day after the date the  
5 charter holder provides written notice under subsection (3), the  
6 commissioner does not provide written notice to the charter holder  
7 disapproving a new campus.

8 (b-2) The initial term of a charter granted under this  
9 section is five years.

10 SECTION 3. Section 12.102, Education Code, is amended to  
11 read as follows:

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

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

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

19 (3) retains authority to operate under the charter to  
20 the extent authorized under Sections 12.1141, 12.115, and 12.116  
21 and Subchapter E, Chapter 39 [contingent on satisfactory student  
22 performance as provided by the charter in accordance with Section  
23 12.111]; and

24 (4) does not have authority to impose taxes.

25 SECTION 4. Section 12.1101, Education Code, is amended to  
26 read as follows:

27 Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION OR

1 ESTABLISHMENT OF CAMPUS. The commissioner by rule shall adopt a  
2 procedure for providing notice to the following persons on receipt  
3 of an application for a charter for an open-enrollment charter  
4 school under Section 12.110 or on receipt by the commissioner of  
5 notice of the establishment of a campus as authorized under Section  
6 12.101(b-2):

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

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

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

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

16 (1) describe the educational program to be offered,  
17 which must include the required curriculum as provided by Section  
18 28.002;

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

21 [~~3~~] provide that continuation or renewal of the  
22 charter is contingent on the status of the charter as determined  
23 under Section 12.1141 or 12.115 or under Subchapter E, Chapter 39

24 [~~acceptable student performance on assessment instruments adopted~~  
25 ~~under Subchapter B, Chapter 39, and on compliance with any~~  
26 ~~accountability provision specified by the charter, by a deadline or~~  
27 ~~at intervals specified by the charter]~~;

1           (3) [~~(4)~~] ~~establish the level of student performance~~  
2 ~~that is considered acceptable for purposes of Subdivision (3),~~

3           ~~[(5)]~~ specify any basis, in addition to a basis  
4 specified by this subchapter or Subchapter E, Chapter 39, on which  
5 the charter may be placed on probation or revoked [~~or on which~~  
6 ~~renewal of the charter may be denied~~];

7           (4) [~~(6)~~] prohibit discrimination in admission policy  
8 on the basis of sex, national origin, ethnicity, religion,  
9 disability, academic, artistic, or athletic ability, or the  
10 district the child would otherwise attend in accordance with this  
11 code, although the charter may:

12                   (A) provide for the exclusion of a student who  
13 has a documented history of a criminal offense, a juvenile court  
14 adjudication, or discipline problems under Subchapter A, Chapter  
15 37; and

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

19           (5) [~~(7)~~] specify the grade levels to be offered;

20           (6) [~~(8)~~] describe the governing structure of the  
21 program, including:

22                   (A) the officer positions designated;

23                   (B) the manner in which officers are selected and  
24 removed from office;

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

27                   (D) the manner in which vacancies on that

1 governing body are filled;

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

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

5 (7) [~~(9)~~] specify the powers or duties of the  
6 governing body of the school that the governing body may delegate to  
7 an officer;

8 (8) [~~(10)~~] specify the manner in which the school will  
9 distribute to parents information related to the qualifications of  
10 each professional employee of the program, including any  
11 professional or educational degree held by each employee, a  
12 statement of any certification under Subchapter B, Chapter 21, held  
13 by each employee, and any relevant experience of each employee;

14 (9) [~~(11)~~] describe the process by which the person  
15 providing the program will adopt an annual budget;

16 (10) [~~(12)~~] describe the manner in which an annual  
17 audit of the financial and programmatic operations of the program  
18 is to be conducted, including the manner in which the person  
19 providing the program will provide information necessary for the  
20 school district in which the program is located to participate, as  
21 required by this code or by State Board of Education rule, in the  
22 Public Education Information Management System (PEIMS);

23 (11) [~~(13)~~] describe the facilities to be used;

24 (12) [~~(14)~~] describe the geographical area served by  
25 the program; and

26 (13) [~~(15)~~] specify any type of enrollment criteria to  
27 be used.

1 SECTION 6. Subchapter D, Chapter 12, Education Code, is  
2 amended by adding Section 12.1141 to read as follows:

3 Sec. 12.1141. DENIAL OF RENEWAL OF CHARTER ON EXPIRATION OF  
4 INITIAL TERM; AUTOMATIC RENEWAL. (a) At the end of the initial term  
5 of a charter of an open-enrollment charter school, the charter  
6 automatically renews without action by the commissioner, except  
7 that the commissioner shall, except as provided by Subsection (b),  
8 deny renewal of the charter if:

9 (1) a campus operating under the charter has been  
10 assigned an unacceptable performance rating under Subchapter C,  
11 Chapter 39, for three of the five preceding school years and such a  
12 campus has not been closed; or

13 (2) the open-enrollment charter school has been  
14 assigned a financial accountability performance rating lower than  
15 the rating of standard achievement under Subchapter D, Chapter 39,  
16 for three of the five preceding school years.

17 (b) In evaluating performance under Chapter 39.053(c), the  
18 commissioner shall designate as a dropout recovery school any  
19 open-enrollment charter school or any campus of an open-enrollment  
20 charter school that:

21 (i) has a student population comprised of  
22 at least 50% of students age 17 or older as of the fall Public  
23 Education Information Management (PEIMS) submission for the school  
24 year evaluated; and

25 (ii) is registered under any alternative  
26 education accountability procedures adopted by the commissioner.

27 (b-1) The commissioner shall not deny renewal of the initial

1 or any successive term of an open-enrollment charter school  
2 designated as a dropout recovery school under subsection (b), or  
3 any open-enrollment charter school that is a residential treatment  
4 facility as defined by Section 5.001(8), based solely on the  
5 criteria specified under subsection (a)(1) or (e), as applicable.  
6 For the purposes of renewal of the term of the charter under  
7 subsection (a)(1) or (e), the commissioner must consider, as  
8 determined by the commissioner in accordance with commissioner  
9 rule, appropriate criteria to measure the specific goals and  
10 student population of the open-enrollment charter school.

11 (c) Not later than the 365th day before the last day of the  
12 initial term of a charter for an open-enrollment charter school,  
13 the commissioner shall provide written notice to the charter  
14 holder, in accordance with commissioner rule, of the basis on which  
15 a charter renewal is denied under Subsection (a) or (b), as  
16 applicable.

17 (d) Before the commissioner denies the renewal of the  
18 initial term of the charter of an open-enrollment charter school,  
19 the commissioner must provide the opportunity for a hearing to the  
20 charter holder and the parents and guardians of students of the  
21 school. A hearing under this subsection must be held at the  
22 facility at which the school is operated. Chapter 2001, Government  
23 Code, does not apply to a hearing under this subsection.

24 (e) A charter of an open-enrollment charter school that has  
25 been renewed at the end of the initial term of the charter  
26 automatically renews at the end of each successive charter term  
27 without action by the commissioner, except that the commissioner

1 shall deny renewal of the charter if the accreditation of the  
2 open-enrollment charter school has been revoked.

3 (f) The term of a charter renewed under this section is 20  
4 years for each renewal.

5 (g) A campus of an open-enrollment charter school rated as  
6 academically unacceptable under Subchapter D, Chapter 39, as that  
7 subchapter existed January 1, 2009, for the 2008-2009, 2009-2010,  
8 or 2010-2011 school year is considered to have been assigned an  
9 unacceptable performance rating for that school year under  
10 Subsection (a)(1). For purposes of Subsection (a)(2), based on  
11 financial accountability reviews, the commissioner shall determine  
12 the appropriate financial accountability performance rating to be  
13 assigned to a charter holder for the 2008-2009 and 2009-2010 school  
14 years. This subsection expires September 1, 2016.

15 SECTION 7. Section 12.115, Education Code, is amended to  
16 read as follows:

17 Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON  
18 PROBATION, REVOCATION, OR MODIFICATION OF GOVERNANCE [~~DENIAL OF~~  
19 ~~RENEWAL~~]. (a) The commissioner ~~may~~ shall modify, place on  
20 probation, or revoke [~~, or deny renewal of~~] the charter of an  
21 open-enrollment charter school or may reconstitute the governing  
22 body of the charter holder or assign operation of an  
23 open-enrollment charter school campus to a different charter holder  
24 if the commissioner determines that the charter holder:

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



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

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

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

7           (5) is imminently insolvent as determined by the  
8 commissioner in accordance with commissioner rule.

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

14           SECTION 8. The heading to Section 12.116, Education Code,  
15 is amended to read as follows:

16           Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON  
17 PROBATION, OR REVOCATION[~~, OR DENIAL OF RENEWAL~~].

18           SECTION 9. Sections 12.116(a) and (c), Education Code, are  
19 amended to read as follows:

20           (a) The commissioner shall adopt a procedure to be used for  
21 modifying, placing on probation, or revoking[~~, or denying renewal~~  
22 ~~of~~] the charter of an open-enrollment charter school.

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

26           SECTION 8. Section 12.1161(a), Education Code, is amended  
27 to read as follows:

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

5                   (1) continue to operate under this subchapter; or

6                   (2) receive state funds under this subchapter.

7           SECTION 9. Section 12.156(b), Education Code, is repealed.