

By: Davis

S.B. No. 1301

A BILL TO BE ENTITLED

AN ACT

1
2 relating to granting and revoking licenses for open-enrollment
3 charter schools and to exempting certain open-enrollment charter
4 schools from assignment of a performance rating.

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

6 SECTION 1. Section 5.001(6), Education Code, is amended to
7 read as follows:

8 (6) "Open-enrollment charter school" means a school
9 that has been granted a license [~~charter~~] under Subchapter D,
10 Chapter 12.

11 SECTION 2. Section 7.028(a), Education Code, is amended to
12 read as follows:

13 (a) Except as provided by Section 29.001(5), 29.010(a),
14 39.056, or 39.057, the agency may monitor compliance with
15 requirements applicable to a process or program provided by a
16 school district, campus, program, or school granted a charter or
17 license [~~charters~~] under Chapter 12, including the process
18 described by Subchapter F, Chapter 11, or a program described by
19 Subchapter B, C, D, E, F, H, or I, Chapter 29, Subchapter A, Chapter
20 37, or Section 38.003, and the use of funds provided for such a
21 program under Subchapter C, Chapter 42, only as necessary to
22 ensure:

23 (1) compliance with federal law and regulations;

24 (2) financial accountability, including compliance

1 with grant requirements; and

2 (3) data integrity for purposes of:

3 (A) the Public Education Information Management
4 System (PEIMS); and

5 (B) accountability under Chapter 39.

6 SECTION 3. Section 7.102(c)(9), Education Code, is amended
7 to read as follows:

8 (9) The board may grant an open-enrollment license
9 [~~charter or approve a charter revision~~] as provided by Subchapter
10 D, Chapter 12.

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

13 CHAPTER 12. CHARTERS AND LICENSES

14 SECTION 5. Section 12.001(b), Education Code, is amended to
15 read as follows:

16 (b) This chapter shall be applied in a manner that ensures
17 the fiscal and academic accountability of persons holding charters
18 or licenses granted [~~issued~~] under this chapter. This chapter may
19 not be applied in a manner that unduly regulates the instructional
20 methods or pedagogical innovations of charter schools.

21 SECTION 6. Sections 12.101(a), (b), and (d), Education
22 Code, are amended to read as follows:

23 (a) In accordance with this subchapter, the State Board of
24 Education may grant a license [~~charter~~] on the application of an
25 eligible entity for an open-enrollment charter school to operate in
26 a facility of a commercial or nonprofit entity, an eligible entity,
27 or a school district, including a home-rule school district. In

1 this subsection, "eligible entity" means:

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

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

6 (3) an organization that is exempt from taxation under
7 Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section
8 501(c)(3)); or

9 (4) a governmental entity.

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

16 (d) An educator employed by a school district before the
17 effective date of a license [~~charter~~] for an open-enrollment
18 charter school operated at a school district facility may not be
19 transferred to or employed by the open-enrollment charter school
20 over the educator's objection.

21 SECTION 7. Section 12.1012, Education Code, is amended by
22 amending Subdivisions (2), (3), and (4) and adding Subdivision
23 (3-a) to read as follows:

24 (2) "Governing body of a license [~~charter~~] holder"
25 means the board of directors, board of trustees, or other governing
26 body of a license [~~charter~~] holder.

27 (3) "Governing body of an open-enrollment charter

1 school" means the board of directors, board of trustees, or other
2 governing body of an open-enrollment charter school. The term
3 includes the governing body of a license [~~charter~~] holder if that
4 body acts as the governing body of the open-enrollment charter
5 school.

6 (3-a) "License holder" means the entity to which a
7 license is granted under this subchapter.

8 (4) "Management company" means a person, other than a
9 license [~~charter~~] holder, who provides management services for an
10 open-enrollment charter school.

11 SECTION 8. Section 12.102, Education Code, is amended to
12 read as follows:

13 Sec. 12.102. AUTHORITY UNDER LICENSE [~~CHARTER~~]. An
14 open-enrollment charter school:

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

18 (2) is governed under the governing structure
19 described by the license [~~charter~~];

20 (3) retains authority to operate under the license
21 [~~charter~~] contingent on satisfactory student performance as
22 provided by the charter in accordance with Section 12.111; and

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

24 SECTION 9. Section 12.1051(a), Education Code, is amended
25 to read as follows:

26 (a) With respect to the operation of an open-enrollment
27 charter school, the governing body of a license [~~charter~~] holder

1 and the governing body of an open-enrollment charter school are
2 considered to be governmental bodies for purposes of Chapters 551
3 and 552, Government Code.

4 SECTION 10. Sections 12.1052(b), (c), and (e), Education
5 Code, are amended to read as follows:

6 (b) Records of an open-enrollment charter school and
7 records of a license [~~charter~~] holder that relate to an
8 open-enrollment charter school are government records for all
9 purposes under state law.

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

20 (e) If the license [~~charter~~] holder of an open-enrollment
21 charter school that ceases to operate or an officer or employee of
22 such a school refuses to transfer school records in the manner
23 specified by the commissioner under Subsection (d), the
24 commissioner may ask the attorney general to petition a court for
25 recovery of the records. If the court grants the petition, the
26 court shall award attorney's fees and court costs to the state.

27 SECTION 11. Sections 12.1053(a) and (c), Education Code,

1 are amended to read as follows:

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

6 (c) To the extent consistent with this section, a
7 requirement in a law listed in this section that applies to a school
8 district or the board of trustees of a school district applies to an
9 open-enrollment charter school, the governing body of a license
10 [~~charter~~] holder, or the governing body of an open-enrollment
11 charter school.

12 SECTION 12. Section 12.1054, Education Code, is amended to
13 read as follows:

14 Sec. 12.1054. APPLICABILITY OF LAWS RELATING TO CONFLICT OF
15 INTEREST. (a) A member of the governing body of a license
16 [~~charter~~] holder, a member of the governing body of an
17 open-enrollment charter school, or an officer of an open-enrollment
18 charter school is considered to be a local public official for
19 purposes of Chapter 171, Local Government Code. For purposes of
20 that chapter:

21 (1) a member of the governing body of a license
22 [~~charter~~] holder or a member of the governing body or officer of an
23 open-enrollment charter school is considered to have a substantial
24 interest in a business entity if a person related to the member or
25 officer in the third degree by consanguinity or affinity, as
26 determined under Chapter 573, Government Code, has a substantial
27 interest in the business entity under Section 171.002, Local

1 Government Code;

2 (2) notwithstanding Subdivision (1) [~~any provision of~~
3 ~~Section 12.1054(1)~~], an employee of an open-enrollment charter
4 school that has been assigned an [~~rated~~] acceptable performance
5 rating [~~or higher~~] under Section 39.054 for at least two of the
6 preceding three school years may serve as a member of the governing
7 body of the license [~~charter~~] holder or [~~of the governing body of~~]
8 the school if the employees do not constitute a quorum of the
9 governing body or any committee of the governing body; however, all
10 members shall comply with [~~the requirements of~~] Sections
11 171.003-171.007, Local Government Code.

12 (b) To the extent consistent with this section, a
13 requirement in a law listed in this section that applies to a school
14 district or the board of trustees of a school district applies to an
15 open-enrollment charter school, the governing body of a license
16 [~~charter~~] holder, or the governing body of an open-enrollment
17 charter school.

18 (c) An open-enrollment charter school rated as academically
19 acceptable or higher under Subchapter D, Chapter 39, as that
20 subchapter existed January 1, 2009, for the 2010-2011 school year
21 is considered to have been assigned an acceptable performance
22 rating for the 2010-2011 school year. This subsection expires
23 September 1, 2015.

24 SECTION 13. Section 12.1055, Education Code, is amended by
25 amending Subsection (b) and adding Subsection (c) to read as
26 follows:

27 (b) Notwithstanding Subsection (a), if an open-enrollment

1 charter school has been assigned an [~~is rated~~] acceptable
 2 performance rating [~~or higher~~] under Section 39.054 for at least
 3 two of the preceding three school years, [~~then~~] Chapter 573,
 4 Government Code, does not apply to that school; however, a member of
 5 the governing body of a license [~~charter~~] holder or a member of the
 6 governing body or officer of an open-enrollment charter school
 7 shall comply with [~~the requirements of~~] Sections 171.003-171.007,
 8 Local Government Code, with respect to a personnel matter
 9 concerning a person related to the member or officer within the
 10 degree specified by Section 573.002, Government Code, as if the
 11 personnel matter were a transaction with a business entity subject
 12 to those sections, and persons described [~~defined~~] under Sections
 13 573.021-573.025, Government Code, may [~~shall~~] not constitute a
 14 quorum of the governing body or any committee of the governing body.

15 (c) An open-enrollment charter school rated as academically
 16 acceptable or higher under Subchapter D, Chapter 39, as that
 17 subchapter existed January 1, 2009, for the 2010-2011 school year
 18 is considered to have been assigned an acceptable performance
 19 rating for the 2010-2011 school year. This subsection expires
 20 September 1, 2015.

21 SECTION 14. Section 12.1056, Education Code, is amended to
 22 read as follows:

23 Sec. 12.1056. IMMUNITY FROM LIABILITY. In matters related
 24 to operation of an open-enrollment charter school, an
 25 open-enrollment charter school is immune from liability to the same
 26 extent as a school district, and its employees and volunteers are
 27 immune from liability to the same extent as school district

1 employees and volunteers. A member of the governing body of an
2 open-enrollment charter school or of a license [~~charter~~] holder is
3 immune from liability to the same extent as a school district
4 trustee.

5 SECTION 15. Section 12.1057(a), Education Code, is amended
6 to read as follows:

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

12 SECTION 16. Section 12.106(a), Education Code, as effective
13 until September 1, 2017, is amended to read as follows:

14 (a) A license [~~charter~~] holder is entitled to receive for
15 the open-enrollment charter school funding under Chapter 42 equal
16 to the greater of:

17 (1) the percentage specified by Section 42.2516(i)
18 multiplied by the amount of funding per student in weighted average
19 daily attendance, excluding enrichment funding under Sections
20 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that
21 would have been received for the school during the 2009-2010 school
22 year under Chapter 42 as it existed on January 1, 2009, and an
23 additional amount of the percentage specified by Section 42.2516(i)
24 multiplied by \$120 for each student in weighted average daily
25 attendance; or

26 (2) the amount of funding per student in weighted
27 average daily attendance, excluding enrichment funding under

1 Section 42.302(a), to which the license [~~charter~~] holder would be
2 entitled for the school under Chapter 42 if the school were a school
3 district without a tier one local share for purposes of Section
4 42.253 and without any local revenue for purposes of Section
5 42.2516.

6 SECTION 17. Section 12.106(a), Education Code, as effective
7 September 1, 2017, is amended to read as follows:

8 (a) A license [~~charter~~] holder is entitled to receive for
9 the open-enrollment charter school funding under Chapter 42 equal
10 to the amount of funding per student in weighted average daily
11 attendance, excluding enrichment funding under Section 42.302(a),
12 to which the license [~~charter~~] holder would be entitled for the
13 school under Chapter 42 if the school were a school district without
14 a tier one local share for purposes of Section 42.253.

15 SECTION 18. Section 12.106(a-2), Education Code, is amended
16 to read as follows:

17 (a-2) In addition to the funding provided by Subsection (a),
18 a license [~~charter~~] holder is entitled to receive for the
19 open-enrollment charter school enrichment funding under Section
20 42.302 based on the state average tax effort.

21 SECTION 19. Sections 12.1061, 12.107, and 12.1071,
22 Education Code, are amended to read as follows:

23 Sec. 12.1061. RECOVERY OF CERTAIN FUNDS. The commissioner
24 may not garnish or otherwise recover funds paid to an
25 open-enrollment charter school under Section 12.106 if:

26 (1) the basis of the garnishment or recovery is that:

27 (A) the number of students enrolled in the school

1 during a school year exceeded the student enrollment described by
2 the school's license [~~charter~~] during that period; and

3 (B) the school received funding under Section
4 12.106 based on the school's actual student enrollment;

5 (2) the school:

6 (A) submits to the commissioner a timely request
7 to revise the maximum student enrollment described by the school's
8 license [~~charter~~] and the commissioner does not notify the school
9 in writing of an objection to the proposed revision before the 90th
10 day after the date on which the commissioner received the request,
11 provided that the number of students enrolled at the school does not
12 exceed the enrollment described by the school's request; or

13 (B) exceeds the maximum student enrollment
14 described by the school's license [~~charter~~] only because a court
15 mandated that a specific child enroll in that school; and

16 (3) the school used all funds received under Section
17 12.106 to provide education services to students.

18 Sec. 12.107. STATUS AND USE OF FUNDS. (a) Funds received
19 under Section 12.106 after September 1, 2001, by a license
20 [~~charter~~] holder:

21 (1) are considered to be public funds for all purposes
22 under state law;

23 (2) are held in trust by the license [~~charter~~] holder
24 for the benefit of the students of the open-enrollment charter
25 school;

26 (3) may be used only for a purpose for which a school
27 may use local funds under Section 45.105(c); and

1 (4) pending their use, must be deposited into a bank,
2 as defined by Section 45.201, with which the license [~~charter~~]
3 holder has entered into a depository contract.

4 (b) A license [~~charter~~] holder shall deliver to the agency a
5 copy of the depository contract between the license [~~charter~~]
6 holder and any bank into which state funds are deposited.

7 Sec. 12.1071. EFFECT OF ACCEPTING STATE FUNDING. (a) A
8 license [~~charter~~] holder who accepts state funds under Section
9 12.106 after the effective date of a provision of this subchapter
10 agrees to be subject to that provision, regardless of the date on
11 which the license [~~charter~~] holder's license [~~charter~~] was granted.

12 (b) A license [~~charter~~] holder who accepts state funds under
13 Section 12.106 after September 1, 2001, agrees to accept all
14 liability under this subchapter for any funds accepted under that
15 section before September 1, 2001. This subsection does not create
16 liability for charter holder conduct occurring before September 1,
17 2001.

18 SECTION 20. Sections 12.110(a), (b), and (c), Education
19 Code, are amended to read as follows:

20 (a) The State Board of Education shall adopt:

21 (1) an application form and a procedure that must be
22 used to apply for a license [~~charter~~] for an open-enrollment
23 charter school; and

24 (2) criteria to use in selecting a program for which to
25 grant a license [~~charter~~].

26 (b) The application form must provide for including the
27 information required under Section 12.111 to be contained in a

1 license [~~charter~~].

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

7 SECTION 21. Sections 12.1101, 12.111, 12.112, 12.113, and
8 12.114, Education Code, are amended to read as follows:

9 Sec. 12.1101. NOTIFICATION OF LICENSE [~~CHARTER~~]
10 APPLICATION. The commissioner by rule shall adopt a procedure for
11 providing notice to the following persons on receipt by the State
12 Board of Education of an application for a license [~~charter~~] for an
13 open-enrollment charter school under Section 12.110:

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

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

20 Sec. 12.111. CONTENT. (a) Each license [~~charter~~] granted
21 under this subchapter must:

22 (1) describe the educational program to be offered,
23 which must include the required curriculum as provided by Section
24 28.002;

25 (2) specify the period for which the charter or any
26 charter renewal is valid;

27 (3) provide that continuation or renewal of the

1 license [~~charter~~] is contingent on acceptable student performance
2 on assessment instruments adopted under Subchapter B, Chapter 39,
3 and on compliance with any accountability provision specified by
4 the license [~~charter~~], by a deadline or at intervals specified by
5 the license [~~charter~~];

6 (4) establish the level of student performance that is
7 considered acceptable for purposes of Subdivision (3);

8 (5) specify any basis, in addition to a basis
9 specified by this subchapter, on which the license [~~charter~~] may be
10 placed on probation or revoked or on which renewal of the license
11 [~~charter~~] may be denied;

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

17 (A) provide for the exclusion of a student who
18 has a documented history of a criminal offense, a juvenile court
19 adjudication, or discipline problems under Subchapter A, Chapter
20 37; and

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

24 (7) specify the grade levels to be offered;

25 (8) describe the governing structure of the program,
26 including:

27 (A) the officer positions designated;

1 (B) the manner in which officers are selected and
2 removed from office;

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

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

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

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

10 (9) specify the powers or duties of the governing body
11 of the school that the governing body may delegate to an officer;

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

18 (11) describe the process by which the person
19 providing the program will adopt an annual budget;

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

27 (13) describe the facilities to be used;

1 (14) describe the geographical area served by the
2 program; and

3 (15) specify any type of enrollment criteria to be
4 used.

5 (b) A license [~~charter~~] holder of an open-enrollment
6 charter school shall consider including in the school's license
7 [~~charter~~] a requirement that the school develop and administer
8 personal graduation plans under Section 28.0212.

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

13 Sec. 12.113. LICENSE [~~CHARTER~~] GRANTED; CONTINUATION OF
14 CHARTERS. (a) Each license [~~charter~~] the State Board of Education
15 grants for an open-enrollment charter school must:

16 (1) satisfy this subchapter; and

17 (2) include the information that is required under
18 Section 12.111 consistent with the information provided in the
19 application and any modification the board requires.

20 (b) The grant of a charter under this subchapter does not
21 create an entitlement to a renewal of a charter on the same terms as
22 it was originally issued. A charter granted under this subchapter
23 before September 1, 2013, may not be renewed. At the time the
24 charter is eligible to be renewed under the terms of the charter,
25 the charter may be renewed only as a license under this subchapter
26 and relevant rules adopted under this subchapter. Except as
27 otherwise provided by this section, during the period before a

1 charter may be renewed as a license as provided by this subsection,
 2 this subchapter applies to the charter holder as though the charter
 3 holder were a license holder, to the governing body of the charter
 4 holder as though that governing body were the governing body of a
 5 license holder, and to the charter as though the charter were a
 6 license granted under this subchapter. The terms "charter holder"
 7 and "governing body of a charter holder" have the meanings assigned
 8 to those terms under Section 12.1012, as that section existed
 9 August 31, 2013, and that section is continued in effect for that
 10 purpose. The commissioner shall adopt rules as necessary to
 11 provide for the renewal of a charter as a license as provided by
 12 this subsection. This subsection expires September 1, 2025.

13 Sec. 12.114. REVISION. (a) A revision of a license
 14 [~~charter~~] of an open-enrollment charter school may be made only
 15 with the approval of the commissioner.

16 (b) Not more than once each year, an open-enrollment charter
 17 school may request approval to revise the maximum student
 18 enrollment described by the school's license [~~charter~~].

19 SECTION 22. Section 12.115, Education Code, is amended to
 20 read as follows:

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

26 (1) committed a material violation of the license
 27 [~~charter~~], including failure to satisfy accountability provisions

1 prescribed by the license [~~charter~~];

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

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

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

8 (b) Except as provided by Section 12.116(a-1), the [~~The~~
9 action the commissioner takes under Subsection (a) shall be based
10 on the best interest of the open-enrollment charter school's
11 students, the severity of the violation, and any previous violation
12 the school has committed.

13 SECTION 23. Section 12.116, Education Code, is amended by
14 amending Subsections (a) and (b) and adding Subsection (a-1) to
15 read as follows:

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

19 (a-1) The procedure adopted under Subsection (a) must
20 provide for the commissioner to give written notice to a license
21 holder of a determination by the commissioner that Section
22 12.115(a)(1), (2), or (3) applies to the license holder. The notice
23 must specifically list each failure or violation by the license
24 holder to which Section 12.115(a)(1), (2), or (3) applies, as
25 determined by the commissioner. If, not later than the 270th day
26 after the date of the receipt of notice by the license holder and
27 after a hearing under Subsection (b), the commissioner determines

1 that each violation or failure listed by the notice has not been
2 corrected, the commissioner shall revoke the license holder's
3 license.

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

9 SECTION 24. Section 12.1161, Education Code, is amended to
10 read as follows:

11 Sec. 12.1161. EFFECT OF REVOCATION, DENIAL OF RENEWAL, OR
12 SURRENDER OF LICENSE [~~CHARTER~~]. (a) Except as provided by
13 Subsection (b), if the commissioner revokes or denies the renewal
14 of a license [~~charter~~] of an open-enrollment charter school, or if
15 an open-enrollment charter school surrenders its license
16 [~~charter~~], the school may not:

- 17 (1) continue to operate under this subchapter; or
18 (2) receive state funds under this subchapter.

19 (b) An open-enrollment charter school may continue to
20 operate and receive state funds under this subchapter for the
21 remainder of a school year if the commissioner denies renewal of the
22 school's license [~~charter~~] before the completion of that school
23 year.

24 SECTION 25. Sections 12.1162(a) and (d), Education Code,
25 are amended to read as follows:

26 (a) The commissioner shall take any of the actions described
27 by Subsection (b) or by Section 39.102(a), to the extent the

1 commissioner determines necessary, if an open-enrollment charter
2 school, as determined by a report issued under Section 39.058(b):

3 (1) commits a material violation of the school's
4 license [~~charter~~];

5 (2) fails to satisfy generally accepted accounting
6 standards of fiscal management; or

7 (3) fails to comply with this subchapter or another
8 applicable rule or law.

9 (d) Not later than the third business day after the date the
10 commissioner acts under Subsection (b), the commissioner shall
11 provide the license [~~charter~~] holder an opportunity for a hearing.

12 SECTION 26. Sections 12.1163(a) and (c), Education Code,
13 are amended to read as follows:

14 (a) To the extent consistent with this section, the
15 commissioner may audit the records of:

16 (1) an open-enrollment charter school;

17 (2) a license [~~charter~~] holder; and

18 (3) a management company.

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

26 SECTION 27. Section 12.1164(a), Education Code, is amended
27 to read as follows:

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

5 SECTION 28. Section 12.117(c), Education Code, is amended
6 to read as follows:

7 (c) An open-enrollment charter school authorized by a
8 license [~~charter~~] granted under this subchapter to a municipality:

9 (1) is considered a work-site open-enrollment charter
10 school for purposes of federal regulations regarding admissions
11 policies that apply to open-enrollment charter schools receiving
12 federal funding; and

13 (2) notwithstanding Subsection (a), may admit
14 children of employees of the municipality to the school before
15 conducting a lottery to fill remaining available positions,
16 provided that the number of children admitted under this
17 subdivision constitutes only a small percentage, as may be further
18 specified by federal regulation, of the school's total enrollment.

19 SECTION 29. Section 12.118(b), Education Code, is amended
20 to read as follows:

21 (b) An evaluation under this section must include
22 consideration of the following items before implementing the
23 license [~~charter~~] and after implementing the license [~~charter~~]:

24 (1) students' scores on assessment instruments
25 administered under Subchapter B, Chapter 39;

26 (2) student attendance;

27 (3) students' grades;

- 1 (4) incidents involving student discipline;
- 2 (5) socioeconomic data on students' families;
- 3 (6) parents' satisfaction with their children's
- 4 schools; and
- 5 (7) students' satisfaction with their schools.

6 SECTION 30. Section 12.119(a), Education Code, is amended
7 to read as follows:

8 (a) A license [~~charter~~] holder shall file with the State
9 Board of Education a copy of its articles of incorporation and
10 bylaws, or comparable documents if the license [~~charter~~] holder
11 does not have articles of incorporation or bylaws, within the
12 period and in the manner prescribed by the board.

13 SECTION 31. The heading to Section 12.120, Education Code,
14 is amended to read as follows:

15 Sec. 12.120. RESTRICTIONS ON SERVING AS MEMBER OF GOVERNING
16 BODY OF LICENSE [~~CHARTER~~] HOLDER OR OPEN-ENROLLMENT CHARTER SCHOOL
17 OR AS OFFICER OR EMPLOYEE.

18 SECTION 32. Section 12.120(a), Education Code, is amended
19 to read as follows:

20 (a) A person may not serve as a member of the governing body
21 of a license [~~charter~~] holder, as a member of the governing body of
22 an open-enrollment charter school, or as an officer or employee of
23 an open-enrollment charter school if the person:

24 (1) has been convicted of a felony or a misdemeanor
25 involving moral turpitude;

26 (2) has been convicted of an offense listed in Section
27 37.007(a);

1 (3) has been convicted of an offense listed in Article
2 62.001(5), Code of Criminal Procedure; or

3 (4) has a substantial interest in a management
4 company.

5 SECTION 33. Section 12.124, Education Code, is amended to
6 read as follows:

7 Sec. 12.124. LOANS FROM MANAGEMENT COMPANY PROHIBITED. (a)
8 The license [~~charter~~] holder or the governing body of an
9 open-enrollment charter school may not accept a loan from a
10 management company that has a contract to provide management
11 services to:

12 (1) that charter school; or

13 (2) another charter school that operates under a
14 license [~~charter~~] granted to the license [~~charter~~] holder.

15 (b) A license [~~charter~~] holder or the governing body of an
16 open-enrollment charter school that accepts a loan from a
17 management company may not enter into a contract with that
18 management company to provide management services to the school.

19 SECTION 34. Section 12.127(c), Education Code, is amended
20 to read as follows:

21 (c) This section is cumulative of all other remedies and
22 does not affect:

23 (1) the liability of a management company to the
24 license [~~charter~~] holder; or

25 (2) the liability of a license [~~charter~~] holder, a
26 member of the governing body of a license [~~charter~~] holder, or a
27 member of the governing body of an open-enrollment charter school

1 to the state.

2 SECTION 35. Sections 12.128(a), (b), and (e), Education
3 Code, are amended to read as follows:

4 (a) Property purchased or leased with funds received by a
5 license [~~charter~~] holder under Section 12.106 after September 1,
6 2001:

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

9 (2) is held in trust by the license [~~charter~~] holder
10 for the benefit of the students of the open-enrollment charter
11 school; and

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

14 (b) If at least 50 percent of the funds used by a license
15 [~~charter~~] holder to purchase real property are funds received under
16 Section 12.106 before September 1, 2001, the property is considered
17 to be public property to the extent it was purchased with those
18 funds.

19 (e) This section does not affect a security interest in or
20 lien on property established by a creditor in compliance with law if
21 the security interest or lien arose in connection with the sale or
22 lease of the property to the license [~~charter~~] holder.

23 SECTION 36. Section 12.132, Education Code, is amended to
24 read as follows:

25 Sec. 12.132. USE OF MUNICIPAL FUNDS FOR CHARTER SCHOOL LAND
26 OR FACILITIES. A municipality to which a license [~~charter~~] is
27 granted under this subchapter may borrow funds, issue obligations,

1 or otherwise spend its funds to acquire land or acquire, construct,
2 expand, or renovate school buildings or facilities and related
3 improvements for its open-enrollment charter school within the city
4 limits of the municipality in the same manner the municipality is
5 authorized to borrow funds, issue obligations, or otherwise spend
6 its funds in connection with any other public works project.

7 SECTION 37. Section 12.133, Education Code, is amended to
8 read as follows:

9 Sec. 12.133. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

10 (a) This section applies to a license [~~charter~~] holder that on
11 January 1, 2006, operated an open-enrollment charter school.

12 (b) Each school year, using state funds received by the
13 license [~~charter~~] holder for that purpose under Subsection (d), a
14 license [~~charter~~] holder that participated in the program under
15 Chapter 1579, Insurance Code, for the 2005-2006 school year shall
16 provide employees of the license [~~charter~~] holder, other than
17 administrators, compensation in the form of annual salaries,
18 incentives, or other compensation determined appropriate by the
19 license [~~charter~~] holder that results in an average compensation
20 increase for classroom teachers, full-time librarians, full-time
21 counselors, and full-time school nurses who are employed by the
22 license [~~charter~~] holder and who would be entitled to a minimum
23 salary under Section 21.402 if employed by a school district, in an
24 amount at least equal to \$2,500.

25 (b-1) Using state funds received by the license [~~charter~~]
26 holder for that purpose under Subsection (d-1), a license [~~charter~~]
27 holder that participated in the program under Chapter 1579,

1 Insurance Code, for the 2005-2006 school year shall provide
2 employees of the license [~~charter~~] holder, other than
3 administrators, compensation in the form of annual salaries,
4 incentives, or other compensation determined appropriate by the
5 license [~~charter~~] holder that results in average compensation
6 increases as follows:

7 (1) for full-time employees other than employees who
8 would be entitled to a minimum salary under Section 21.402 if
9 employed by a school district, an average increase at least equal to
10 \$500; and

11 (2) for part-time employees, an average increase at
12 least equal to \$250.

13 (c) Each school year, using state funds received by the
14 license [~~charter~~] holder for that purpose under Subsection (e), a
15 license [~~charter~~] holder that did not participate in the program
16 under Chapter 1579, Insurance Code, for the 2005-2006 school year
17 shall provide employees of the license [~~charter~~] holder, other than
18 administrators, compensation in the form of annual salaries,
19 incentives, or other compensation determined appropriate by the
20 license [~~charter~~] holder that results in an average compensation
21 increase for classroom teachers, full-time librarians, full-time
22 counselors, and full-time school nurses who are employed by the
23 license [~~charter~~] holder and who would be entitled to a minimum
24 salary under Section 21.402 if employed by a school district, in an
25 amount at least equal to \$2,000.

26 (d) Each school year, in addition to any amounts to which a
27 license [~~charter~~] holder is entitled under this chapter, a license

1 ~~[charter]~~ holder that participated in the program under Chapter
2 1579, Insurance Code, for the 2005-2006 school year is entitled to
3 state aid in an amount, as determined by the commissioner, equal to
4 the product of \$2,500 multiplied by the number of classroom
5 teachers, full-time librarians, full-time counselors, and
6 full-time school nurses employed by the license ~~[charter]~~ holder at
7 an open-enrollment charter school.

8 (d-1) In addition to any amounts to which a license
9 ~~[charter]~~ holder is entitled under this chapter, a license
10 ~~[charter]~~ holder that participated in the program under Chapter
11 1579, Insurance Code, for the 2005-2006 school year is entitled to
12 state aid in an amount, as determined by the commissioner, equal to
13 the sum of:

14 (1) the product of \$500 multiplied by the number of
15 full-time employees other than employees who would be entitled to a
16 minimum salary under Section 21.402 if employed by a school
17 district; and

18 (2) the product of \$250 multiplied by the number of
19 part-time employees.

20 (e) Each school year, in addition to any amounts to which a
21 license ~~[charter]~~ holder is entitled under this chapter, a license
22 ~~[charter]~~ holder that did not participate in the program under
23 Chapter 1579, Insurance Code, for the 2005-2006 school year is
24 entitled to state aid in an amount, as determined by the
25 commissioner, equal to the product of \$2,000 multiplied by the
26 number of classroom teachers, full-time librarians, full-time
27 counselors, and full-time school nurses employed by the license

1 ~~[charter]~~ holder at an open-enrollment charter school.

2 (f) A payment under this section is in addition to wages the
3 license ~~[charter]~~ holder would otherwise pay the employee during
4 the school year.

5 SECTION 38. Section 12.135(a), Education Code, is amended
6 to read as follows:

7 (a) On the application of the license ~~[charter]~~ holder, the
8 commissioner may grant designation as a charter district to an
9 open-enrollment charter school that meets financial standards
10 adopted by the commissioner. The financial standards must require
11 an open-enrollment charter school to have an investment grade
12 credit rating as specified by Section 45.0541.

13 SECTION 39. Subchapter D, Chapter 12, Education Code, is
14 amended by adding Section 12.136 to read as follows:

15 Sec. 12.136. ADOPTION OF RULES FOR TRANSITION TO LICENSING.
16 The commissioner may adopt rules as necessary to provide for the
17 transition from granting charters to granting licenses under this
18 subchapter. This section expires January 1, 2015.

19 SECTION 40. Section 12.156, Education Code, is amended to
20 read as follows:

21 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)
22 Except as otherwise provided by this subchapter, Subchapter D
23 applies to a college or university charter school or junior college
24 charter school as though the college or university charter school
25 or junior college charter school, as applicable, were granted a
26 license ~~[charter]~~ under that subchapter.

27 (b) A charter granted under this subchapter is not

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

3 SECTION 41. Section 38.152, Education Code, is amended to
4 read as follows:

5 Sec. 38.152. APPLICABILITY. This subchapter applies to an
6 interscholastic athletic activity, including practice and
7 competition, sponsored or sanctioned by:

8 (1) a school district, including a home-rule school
9 district, or a public school, including any school for which a
10 charter or license has been granted under Chapter 12; or

11 (2) the University Interscholastic League.

12 SECTION 42. Section 39.104(a), Education Code, is amended
13 to read as follows:

14 (a) Except to the extent of a conflict with Section
15 12.116(a-1), interventions [~~Interventions~~] and sanctions
16 authorized under this chapter for a school district or campus apply
17 in the same manner to an open-enrollment charter school.

18 SECTION 43. Subchapter C, Chapter 39, Education Code, is
19 amended by adding Section 39.0541 to read as follows:

20 Sec. 39.0541. EXEMPTION FROM ASSIGNMENT OF PERFORMANCE
21 RATING FOR ALTERNATIVE EDUCATION OPEN-ENROLLMENT CHARTER SCHOOL.

22 (a) Notwithstanding any other provision of this subchapter, based
23 on standards adopted by commissioner rule, the commissioner may
24 grant an exemption from the assignment of a performance rating
25 under Section 39.054 to an open-enrollment charter school that is
26 an alternative education campus serving only or primarily students
27 who:

1 (1) have dropped out of school;

2 (2) are students at risk of dropping out of school, as
3 defined by Section 29.081; or

4 (3) are part of a special population, including
5 students eligible for a school district special education program
6 under Section 29.003.

7 (b) To be granted an exemption under Subsection (a), an
8 open-enrollment charter school must apply for the exemption in the
9 time and manner required by commissioner rule.

10 (c) An exemption under Subsection (a) expires at the end of
11 the school year for which it is granted.

12 SECTION 44. Section 45.301(1), Education Code, is amended
13 to read as follows:

14 (1) "License [~~Charter~~] holder" has the meaning
15 assigned by Section 12.1012.

16 SECTION 45. Section 45.302(a), Education Code, is amended
17 to read as follows:

18 (a) The commissioner by rule may establish an
19 open-enrollment charter school facilities credit enhancement
20 program to assist license [~~charter~~] holders in obtaining financing
21 for the purchase, repair, or renovation of real property, including
22 improvements to real property, for facilities of open-enrollment
23 charter schools.

24 SECTION 46. Section 45.303, Education Code, is amended to
25 read as follows:

26 Sec. 45.303. LIMITATION ON PARTICIPATION; MINIMUM
27 REQUIREMENTS FOR DEBT SERVICE RESERVE. In adopting rules under

1 Section 45.302, the commissioner may:

2 (1) limit participation in the program to license
3 [~~charter~~] holders who hold licenses [~~charters~~] for open-enrollment
4 charter schools that meet standards established by the
5 commissioner, including standards for financial stability,
6 compliance with applicable state and federal program requirements,
7 and student academic performance; and

8 (2) impose minimum requirements for a debt service
9 reserve to secure repayment of obligations for which credit
10 enhancement is provided under this subchapter.

11 SECTION 47. Sections 45.306(a), (b), (c), and (e),
12 Education Code, are amended to read as follows:

13 (a) If a license [~~charter~~] holder on behalf of which the
14 state makes a payment under the program does not immediately repay
15 the Foundation School Program the amount of the payment, the
16 commissioner shall withhold any funds due from the state to the
17 license [~~charter~~] holder as necessary to recover the total amount
18 of state and private funds paid on behalf of the license [~~charter~~]
19 holder under the program.

20 (b) If a license [~~charter~~] holder is for any reason,
21 including revocation or surrender of a license [~~charter~~] or
22 bankruptcy, unable to repay any amount due under this subchapter,
23 any loss of funds shall be shared equally between the Foundation
24 School Program and the person providing the private funds obligated
25 for credit enhancement under this subchapter.

26 (c) A license [~~charter~~] holder for which credit enhancement
27 is provided under this subchapter to purchase, repair, or renovate

1 real property for open-enrollment charter school facilities must
2 agree to execute a lien on that real property in a form prescribed
3 by the commissioner and approved by the attorney general to secure
4 repayment of all amounts due to the state from the license [~~charter~~]
5 holder, including reimbursement of any private funds paid on behalf
6 of an open-enrollment charter school under this subchapter.

7 (e) The commissioner shall notify a license [~~charter~~]
8 holder of any amount determined to be due to the state, including
9 federal funds. If the full amount due to the state has not been
10 repaid or recovered by the commissioner from other funds due to the
11 license [~~charter~~] holder within the current and subsequent school
12 year, the commissioner may request the attorney general to file an
13 action to foreclose on a lien under this section. Funds recovered
14 from foreclosure of a lien under this section shall be credited
15 first to any security interest or lien with priority over the lien
16 under this section, then to the license [~~charter~~] holder's
17 obligation under this section, and then to any other program to
18 which the funds are due.

19 SECTION 48. Section 53.02(10), Education Code, is amended
20 to read as follows:

21 (10) "Authorized charter school" means an
22 open-enrollment charter school that holds a license [~~charter~~]
23 granted under Subchapter D, Chapter 12, and includes an
24 open-enrollment charter school designated as a charter district as
25 provided by Section 12.135.

26 SECTION 49. Section 221.0071(a), Human Resources Code, is
27 amended to read as follows:

1 (a) Notwithstanding any other law and in addition to the
2 number of licenses [~~charters~~] allowed under Subchapter D, Chapter
3 12, Education Code, the State Board of Education may grant a charter
4 on the application of a detention, correctional, or residential
5 facility established only for juvenile offenders under Section
6 51.12, 51.125, or 51.126, Family Code.

7 SECTION 50. Section 221.056(d), Human Resources Code, is
8 amended to read as follows:

9 (d) Notwithstanding any other law and in addition to the
10 number of licenses [~~charters~~] allowed under Subchapter D, Chapter
11 12, Education Code, the State Board of Education shall grant a
12 charter on the application of a residential treatment facility
13 established under this section for a school chartered for the
14 purposes of this section.

15 SECTION 51. Sections 375.308(b) and (c), Local Government
16 Code, are amended to read as follows:

17 (b) An authority may not:

18 (1) issue bonds or notes without the prior approval of
19 the governing body of the municipality that created the authority;

20 (2) seek a license [~~charter~~] for or operate, within
21 the boundaries of the authority, an open-enrollment charter school
22 authorized by Subchapter D, Chapter 12, Education Code; or

23 (3) levy ad valorem property taxes.

24 (c) A municipality may not seek a license [~~charter~~] for or
25 operate an open-enrollment charter school authorized by Subchapter
26 D, Chapter 12, Education Code, within the boundaries of the
27 authority.

1 SECTION 52. Section 12.1012(1), Education Code, is
2 repealed.

3 SECTION 53. The amendment of Subchapter D, Chapter 12,
4 Education Code, by this Act and amendments to other provisions of
5 law by this Act to conform to the amendment of Subchapter D, Chapter
6 12, Education Code, by this Act do not affect the status of a
7 charter, including any legal rights, duties, and obligations based
8 on a charter, granted under Subchapter D, Chapter 12, Education
9 Code, before September 1, 2013.

10 SECTION 54. This Act takes effect September 1, 2013.