

By: González of El Paso

H.B. No. 3198

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the regulation of open-enrollment charter schools and  
3 requiring a study comparing and evaluating certain characteristics  
4 of open-enrollment charter schools and school districts.

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

6 SECTION 1. Subchapter C, Chapter 7, Education Code, is  
7 amended by adding Section 7.067 to read as follows:

8 Sec. 7.067. OPEN-ENROLLMENT CHARTER SCHOOL IMPACT REPORT.

9 (a) The commissioner shall conduct a study to evaluate:

10 (1) the relative enrollment characteristics of  
11 open-enrollment charter schools and school districts; and

12 (2) the financial impact of open-enrollment charter  
13 schools on school districts required to take action under Chapter  
14 41 to reduce district wealth per student to the equalized wealth  
15 level.

16 (b) Each school district and open-enrollment charter school  
17 shall submit to the commissioner any information, including  
18 information that is disaggregated with respect to designated  
19 categories, required by the commissioner to conduct the study under  
20 this section.

21 (c) The study must:

22 (1) compare open-enrollment charter schools to school  
23 districts with respect to the number of enrolled students who are:

24 (A) eligible under Section 29.003 to participate

1 in special education services;

2 (B) identified as economically disadvantaged; or

3 (C) placed in a disciplinary alternative

4 education program or expelled; and

5 (2) examine the financial impact of open-enrollment

6 charter schools on school districts required to take action under

7 Chapter 41 to reduce district wealth per student to the equalized

8 wealth level by:

9 (A) considering:

10 (i) the adequacy of school and district

11 educators and other employees necessary to achieve the state policy

12 under Section 42.001;

13 (ii) school and district performance,

14 including student performance; and

15 (iii) student demographics, including

16 race, sex, ethnicity, and national origin; and

17 (B) determining whether open-enrollment charter

18 schools affect the standard of neutrality described by Section

19 42.001(b) with respect to:

20 (i) property wealth per weighted student;

21 (ii) revenue per weighted student;

22 (iii) tax effort; and

23 (iv) revenue per cent of tax effort.

24 (d) Not later than December 1, 2020, the commissioner shall

25 prepare and submit to the governor, the lieutenant governor, the

26 speaker of the house of representatives, and the presiding officer

27 of each legislative standing committee with primary jurisdiction

1 over primary and secondary education a written report containing  
2 the results of the study and any recommendations for legislative or  
3 other action.

4 (e) The commissioner shall adopt rules to administer this  
5 section, including rules:

6 (1) providing guidance regarding the format and manner  
7 for the submission of information under Subsection (b); and

8 (2) ensuring that reporting under this section  
9 complies with federal law regarding confidentiality of student  
10 medical or educational information, including the Health Insurance  
11 Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d  
12 et seq.) and the Family Educational Rights and Privacy Act of 1974  
13 (20 U.S.C. Section 1232g), and any state law relating to the privacy  
14 of student information.

15 (f) This section expires September 1, 2021.

16 SECTION 2. Section 12.101, Education Code, is amended by  
17 amending Subsections (b-1) and (b-2) and adding Subsections (b-10)  
18 and (b-11) to read as follows:

19 (b-1) Beginning September 1, 2019, and except as provided by  
20 Subsection (b-10) [~~In granting charters for open-enrollment~~  
21 ~~charter schools~~], the commissioner may not:

22 (1) grant a charter for an open-enrollment charter  
23 school, including a school operating only a full-time online  
24 program [~~a total of more than:~~

25 ~~(1) 215 charters through the fiscal year ending~~  
26 ~~August 31, 2014]; or~~

27 (2) approve an expansion amendment under Section

1 [12.114](#) [~~225 charters beginning September 1, 2014,~~  
2 ~~(3) 240 charters beginning September 1, 2015,~~  
3 ~~(4) 255 charters beginning September 1, 2016,~~  
4 ~~(5) 270 charters beginning September 1, 2017, and~~  
5 ~~(6) 285 charters beginning September 1, 2018~~].

6 (b-2) Beginning September 1, 2021 [~~2019~~], the total number  
7 of charters for open-enrollment charter schools that may be granted  
8 is 305 charters.

9 (b-10) Subsection (b-1) does not apply to a charter for an  
10 open-enrollment charter school that:

11 (1) is designated as a dropout recovery school under  
12 Section [12.1141\(c\)](#);

13 (2) specializes in one or more performing arts; or

14 (3) provides combined services for an adult education  
15 program and a high school dropout recovery program under Section  
16 [12.137](#).

17 (b-11) Subsections (b-1) and (b-10) and this subsection  
18 expire September 1, 2021.

19 SECTION 3. Section [12.1011\(a\)](#), Education Code, is amended  
20 to read as follows:

21 (a) Notwithstanding Section [12.101\(b\)](#) and beginning  
22 September 1, 2021, the commissioner may grant a charter for an  
23 open-enrollment charter school to an applicant that is:

24 (1) an eligible entity under Section [12.101\(a\)\(3\)](#) that  
25 proposes to operate the charter school program of a charter  
26 operator that operates one or more charter schools in another state  
27 and with which the eligible entity is affiliated and, as determined

1 by the commissioner in accordance with commissioner rule, has  
2 performed at a level of performance comparable to performance under  
3 the highest or second highest performance rating category under  
4 Subchapter C, Chapter 39; or

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

10 SECTION 4. Section 12.1012, Education Code, is amended by  
11 adding Subdivision (1-a) to read as follows:

12 (1-a) "Expansion amendment" means an amendment to the  
13 charter of an open-enrollment charter school that permits the  
14 school to increase its maximum allowable enrollment, extend the  
15 grade levels it serves, change its geographic boundaries, or add a  
16 campus or site.

17 SECTION 5. Section 12.107(a), Education Code, is amended to  
18 read as follows:

19 (a) Funds received under Section 12.106 after September 1,  
20 2001, by a 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 charter holder for the  
24 benefit of the students of the open-enrollment charter school;

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

27 (4) pending their use, must be deposited into a bank,

1 as defined by Section 45.201, with which the charter holder has  
2 entered into a depository contract; and

3 (5) may not:

4 (A) be pledged or used for marketing,  
5 advertising, or other activities to promote the charter holder or  
6 the open-enrollment charter school; or

7 (B) be used to support an operation or activity  
8 not related to the educational activities of the charter holder.

9 SECTION 6. Effective September 1, 2021, Section 12.110,  
10 Education Code, is amended by adding Subsection (d-1) to read as  
11 follows:

12 (d-1) The commissioner shall deny an application for a  
13 charter for an open-enrollment charter school from an applicant  
14 that has submitted three or more applications for a charter under  
15 this section and has not received approval.

16 SECTION 7. Section 12.1101, Education Code, is amended to  
17 read as follows:

18 Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION [~~OR~~  
19 ~~ESTABLISHMENT OF CAMPUS~~]. The commissioner by rule shall adopt a  
20 procedure for providing notice to the following persons on receipt  
21 by the commissioner of an application for a charter for an  
22 open-enrollment charter school under Section 12.110 [~~or of notice~~  
23 ~~of the establishment of a campus as authorized under Section~~  
24 ~~12.101(b-4)~~]:

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

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

4           SECTION 8. Effective September 1, 2021, Section 12.114,  
5 Education Code, is amended by amending Subsection (a) and adding  
6 Subsection (a-1) to read as follows:

7           (a) A revision of a charter of an open-enrollment charter  
8 school may be made only with the approval of the commissioner, in  
9 coordination with a member of the State Board of Education  
10 designated for the purpose by the chair of the board.

11           (a-1) The commissioner shall notify the State Board of  
12 Education of each request for revision the commissioner proposes to  
13 grant under this subchapter.

14           SECTION 9. Section 12.131, Education Code, is amended by  
15 adding Subsection (d) to read as follows:

16           (d) The commissioner by rule shall establish reporting  
17 procedures to require the governing body of an open-enrollment  
18 charter school to annually report to the commissioner information  
19 consistent with the information described by Section 37.020  
20 regarding each student placement in a disciplinary alternative  
21 education program and each student expulsion.

22           SECTION 10. Section 12.101(b-4), Education Code, is  
23 repealed.

24           SECTION 11. (a) Section 12.110(d-1), Education Code, as  
25 added by this Act, and Section 12.114, Education Code, as amended by  
26 this Act, apply only to an application for a charter for an  
27 open-enrollment charter school or a request for approval of a

1 revision to the charter of an open-enrollment charter school  
2 submitted on or after September 1, 2021.

3 (b) As soon as practicable after the effective date of this  
4 Act, the commissioner of education shall adopt rules necessary to  
5 implement the changes in law made by this Act.

6 SECTION 12. Except as otherwise provided by this Act, this  
7 Act takes effect September 1, 2019.