87R2892 BDP-D

By:  González of El Paso H.B. No. 684

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1.  Subchapter C, Chapter 7, Education Code, is amended by adding Section 7.066 to read as follows:

Sec. 7.066.  OPEN-ENROLLMENT CHARTER SCHOOL IMPACT REPORT. (a) The commissioner shall conduct a study to evaluate:

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

(2)  the financial impact of open-enrollment charter schools on school districts required to take action under Chapter 49 to reduce the districts' local revenue levels.

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

(c)  The study must:

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

(A)  eligible under Section 29.003 to participate in special education services;

(B)  identified as economically disadvantaged; or

(C)  placed in a disciplinary alternative education program or expelled; and

(2)  examine the financial impact of open-enrollment charter schools on school districts required to take action under Chapter 49 to reduce the districts' local revenue levels by:

(A)  considering:

(i)  the adequacy of school and district educators and other employees necessary to achieve the state policy under Section 48.001;

(ii)  school and district performance, including student performance; and

(iii)  student demographics, including race, sex, ethnicity, and national origin; and

(B)  determining whether open-enrollment charter schools affect the standard of neutrality described by Section 48.001(b) with respect to:

(i)  property wealth per weighted student;

(ii)  revenue per weighted student;

(iii)  tax effort; and

(iv)  revenue per cent of tax effort.

(d)  Not later than December 1, 2022, the commissioner shall prepare and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report containing the results of the study and any recommendations for legislative or other action.

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

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

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

(f)  This section expires September 1, 2023.

SECTION 2.  Section 12.101, Education Code, is amended by amending Subsections (b-1) and (b-2) and adding Subsections (b-11) and (b-12) to read as follows:

(b-1)  Beginning September 1, 2021, and except as provided by Subsection (b-11) [~~In granting charters for open-enrollment charter schools~~], the commissioner may not:

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

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

(2)  approve an expansion amendment under Section 12.114 [~~225 charters beginning September 1, 2014;~~

[~~(3)  240 charters beginning September 1, 2015;~~

[~~(4)  255 charters beginning September 1, 2016;~~

[~~(5)  270 charters beginning September 1, 2017; and~~

[~~(6)  285 charters beginning September 1, 2018~~].

(b-2)  Beginning September 1, 2023 [~~2019~~], the total number of charters for open-enrollment charter schools that may be granted is 305 charters.

(b-11)  Subsection (b-1) does not apply to a charter for an open-enrollment charter school that:

(1)  is designated as a dropout recovery school under Section 12.1141(c);

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

(3)  provides combined services for an adult education program and a high school dropout recovery program under Section 12.137.

(b-12)  Subsections (b-1) and (b-11) and this subsection expire September 1, 2023.

SECTION 3.  Section 12.1011(a), Education Code, is amended to read as follows:

(a)  Notwithstanding Section 12.101(b) and beginning September 1, 2023, 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.

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

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

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

(a)  Funds received under Section 12.106 after September 1, 2001, by a charter holder:

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

(2)  are held in trust by the charter holder for the benefit of the students of the open-enrollment charter school;

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

(4)  pending their use, must be deposited into a bank, as defined by Section 45.201, with which the charter holder has entered into a depository contract; and

(5)  may not:

(A)  be pledged or used:

(i)  to secure loans or bonds for any other organization, including a non-charter operation or out-of-state operation conducted by the charter holder or a related party, as defined by commissioner rule adopted under Section 12.1166; or

(ii)  for marketing, advertising, or other activities to promote the charter holder or the open-enrollment charter school; or

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

SECTION 6.  Effective September 1, 2023, Section 12.110, Education Code, is amended by adding Subsection (d-1) to read as follows:

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

SECTION 7.  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 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 superintendent and 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 8.  Effective September 1, 2023, Section 12.114, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

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

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

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

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

SECTION 10.  Sections 12.101(b-4) and (b-10), Education Code, are repealed.

SECTION 11.  (a) Section 12.110(d-1), Education Code, as added by this Act, and Section 12.114, Education Code, as amended by this Act, apply only to an application for a charter for an open-enrollment charter school or a request for approval of a revision to the charter of an open-enrollment charter school submitted on or after September 1, 2023.

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

SECTION 12.  Except as otherwise provided by this Act, this Act takes effect September 1, 2021.