

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;

1 (B) identified as economically disadvantaged; or
2 (C) placed in a disciplinary alternative
3 education program or expelled; and

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

7 (A) considering:

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

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

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

15 (B) determining whether open-enrollment charter
16 schools affect the standard of neutrality described by Section
17 48.001(b) with respect to:

18 (i) property wealth per weighted student;

19 (ii) revenue per weighted student;

20 (iii) tax effort; and

21 (iv) revenue per cent of tax effort.

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

1 other action.

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

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

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

13 (f) This section expires September 1, 2023.

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

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

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

23 (1) 215 charters through the fiscal year ending
24 August 31, 2014]; or

25 (2) approve an expansion amendment under Section
26 [12.114](#) [225 charters beginning September 1, 2014,

27 (3) 240 charters beginning September 1, 2015,

1 ~~[(4) 255 charters beginning September 1, 2016,~~
2 ~~[(5) 270 charters beginning September 1, 2017, and~~
3 ~~[(6) 285 charters beginning September 1, 2018].~~

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

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

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

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

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

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

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

19 (a) Notwithstanding Section [12.101\(b\)](#) and beginning
20 September 1, 2023, the commissioner may grant a charter for an
21 open-enrollment charter school to an applicant that is:

22 (1) an eligible entity under Section [12.101\(a\)\(3\)](#) that
23 proposes to operate the charter school program of a charter
24 operator that operates one or more charter schools in another state
25 and with which the eligible entity is affiliated and, as determined
26 by the commissioner in accordance with commissioner rule, has
27 performed at a level of performance comparable to performance under

1 the highest or second highest performance rating category under
2 Subchapter C, Chapter 39; or

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

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

10 (1-a) "Expansion amendment" means an amendment to the
11 charter of an open-enrollment charter school that permits the
12 school to increase its maximum allowable enrollment, extend the
13 grade levels it serves, change its geographic boundaries, or add a
14 campus or site.

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

17 (a) Funds received under Section 12.106 after September 1,
18 2001, by a charter holder:

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

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

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

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

1 (5) may not:

2 (A) be pledged or used:

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

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

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

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

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

19 SECTION 7. Section 12.1101, Education Code, is amended to
20 read as follows:

21 Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION [~~OR~~
22 ~~ESTABLISHMENT OF CAMPUS~~]. The commissioner by rule shall adopt a
23 procedure for providing notice to the following persons on receipt
24 by the commissioner of an application for a charter for an
25 open-enrollment charter school under Section 12.110 [~~or of notice~~
26 ~~of the establishment of a campus as authorized under Section~~
27 ~~12.101(b-4)]:~~

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

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

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

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

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

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

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

27 SECTION 10. Sections 12.101(b-4) and (b-10), Education

1 Code, are repealed.

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

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

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