

SUBJECT: Prohibiting TEA from recovering funds from overenrolled charter schools

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Grusendorf, Oliveira, Branch, Dawson, Dutton, Eissler, Griggs, Hochberg, Madden
0 nays

WITNESSES: For — Olga Brooks and Helen Iwuala, Northwest Math, Science and Language Academy; Lois Bullock, Energized for Excellence Academy; Linda Johnson, Gulf Shores Open Enrollment Charter School; Gilbert Moreno, Association of Charter Educators of Texas; Charles Polk, Jesse Jackson Academy; Steve Rice, National Charter School Association; Carol Thorne, Essential Support Services; Forrest Watson, Eagle Academies of Texas; Dolores Hillyer; Artie Jackson

Against — None

BACKGROUND: The State Board of Education (SBOE) determines enrollment criteria, including limits on enrollment, as part of the process of approving a charter for an open-enrollment charter school. These schools receive state funding from the Texas Education Agency (TEA) based on average daily attendance. During the first year of a charter school's operation, state payments are based on an estimate of attendance. Beginning in the second year, payments are based on attendance reports submitted every six weeks to TEA.

DIGEST: HB 1202 would prohibit TEA from garnishing or otherwise recovering funds paid to open-enrollment charter schools if the basis for the overfunding was overenrollment during a school year in relation to the enrollment described by the school's charter, and if the school used all of the state funds to provide education services to students.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 1202 would help ensure that charter schools do not suffer potentially disastrous financial consequences as a result of exceeding enrollment caps. Charter schools may be overenrolled for legitimate reasons, including some outside their control. For example, local justices of the peace might order truant students to attend a charter school, or public schools might send disruptive students to a charter school. As a result of accepting these students, a charter school might exceed the enrollment cap set by the SBOE as part of the charter. TEA can take back money that a charter school already has spent to educate students, which can have a devastating effect on the school's finances.

Some charter schools have had difficulty persuading the SBOE to increase their enrollment caps. Many of these schools have long waiting lists and are eager to accommodate more students. If the board fails to respond to the community's needs, charter schools should not be punished for responding to these needs by exceeding their enrollment caps.

**OPPONENTS
SAY:**

HB 1202 would remove an important incentive for charter schools to stay within enrollment caps set by the SBOE as part of the decision to grant a charter. Enrollment caps are based on a variety of considerations, including building capacity, teacher qualifications, and student needs. A charter school need not accept students from public schools if it has reached capacity. A charter school that exceeds its cap and accepts a large number of students from public schools could affect adversely the finances of the public school, particularly in small communities where small shifts in student populations can have a large effect on a school district's budget.

Only a handful of charter schools have exceeded their enrollment caps, and even fewer have experienced financial problems as a result. TEA never has rescinded funding from a charter school, although it has reduced future funding in limited situations because of dramatic overenrollment.

Recently, TEA assumed responsibility for approving increases in enrollment caps. This should speed up the process of increasing enrollment caps if such an increase is appropriate.