

SUBJECT: Establishing a new system of public charter schools

COMMITTEE: Public Education — favorable, without amendment

VOTE: 7 ayes — Eissler, Zedler, Dutton, Hochberg, Mowery, Olivo, Patrick
0 nays
2 absent — Branch, Delisi

SENATE VOTE: On final passage, April 16 — 30-0

WITNESSES: For — Martin R. Acevedo, Tori Dugar, Steven J. Epstein, Mike Feinberg, Kinloch Gill, Teri O’Glee, Sharon R. Simpson, Elizabeth Wilmer, KIPP; Steven Amstutz, Harvin Moore, Abelardo Saavedra, Houston Independent School District; Chris Barbic, Bill Durbin, Joe Greenberg, YES Prep Public Schools; Jeremy Beard, Paula Gama Garcia, Tom Torkelson, IDEA Public Schools; Dollie Blevins, Fort Worth Academy of Fine Arts; Teresa Elliott, Nyos Charter School, Inc.; Terry N. Ford, Dallas Community Charter School; Demetria D. George, Elizabeth Jackson, Philip Montgomery, Rosemary Perlmeter, Uplift Education; Nancy Grayson, Bobbie Perkins, Rapoport Academy; Patsy O’Neill, Resource Center for Charter Schools; Ozgur Ozer, Harmony Science Academy; Stan Simonson, St. Mary’s Academy Charter School; and eight others.

Against — Lisa Ashmore, The Education Centers; Janice Blackmon, Universal Academy; Chuck Cook, Eagle Academies of Texas, Charter Choice; Malorie Dial, Kelton Hicks, Debra Miller, Michael Phelps, Erath Excels; Nick Farley, The Education Center; Tommy Fuller, Diane Harris, Michael McKee, Universal Academy; H.M. Motsinger, Texas Can!; Jim Neal, Southwest Preparatory School; Juan Pineda, Carmen Rodriguez, American YouthWorks; Tanis Stanfield, ComQuest Academy; and 34 others; (*Registered, but did not testify:* Zoila Julissa Arevalo, Nayelly Guerrero, William Medrano, Eagle Academy of Laredo; Jesse Medrano, Eagle Academy; Kristen Behan, ComQuest Academy Charter; Larry Doversberger, Universal Academy Charter School; Jamie Falkenberg, Alcovian Hartsfield, Cyndi Morgan, Jason Osburn, Temple Education Center; M.L. Garza, M.L. Garza-Gonzalez Charter School; and 13 others.)

On — Jonas Chartock, Charter School Policy Institute; Susan Dawson; Virginia Lannen, Association of Charter Educators; Elena Lincoln, Association of Texas Professional Educators; Mike Lopez, Association of Charter Educators; Robert Molyneaux; Patty Quinzi, Texas Federation of Teachers; Jamie Story, Texas Public Policy Foundation; Arturo Suarez, Association of Charter Educators; (*Registered, but did not testify:* Guadalupe Jimenez, Diana Perez, George I. Sanchez Charter High School; Jack Kelly, Texas State Teachers Association)

BACKGROUND: In 1995, the 74th Legislature authorized 20 open-enrollment charter schools and exempted them from many administrative and regulatory requirements that apply to public schools. The 75th Legislature in 1997 authorized an additional 100 charter schools and an unlimited number of “at-risk” charters for schools where at least 75 percent of the student body had been identified as at risk of dropping out.

In 2001, the 77th Legislature enacted HB 6 by Dunnam, which significantly expanded state oversight of charter schools. The act imposed a moratorium on additional charter schools and transferred regulatory authority over charter schools from the State Board of Education (SBOE) to the Texas Education Agency (TEA). It authorized TEA to conduct hearings, modify, place on probation, revoke, or deny renewal of a charter. The SBOE retained authority to grant charters. HB 6 also added controls over for-profit management companies that contract with nonprofit charter holders and charter schools to provide a variety of services, including planning a school’s educational program, hiring staff, and managing a school’s day-to-day operations.

Education Code, ch. 12, subch. D governs open-enrollment charter schools, which include almost all charter holders in the state.

DIGEST: Beginning August 1, 2008, SB 4 would repeal Education Code, ch. 12, subch. D, abolish open-enrollment charters, and establish new regulations governing “public charter districts” under Education Code, ch. 11A. The bill would authorize the SBOE to grant up to 215 charters for public charter districts to eligible applicants, including public, private, or independent higher education institutions, nonprofit organizations, or governmental entities.

A public charter district would be part of the state public school system and would have to provide instruction to and assess students at a number

of elementary or secondary grade levels, as provided by the charter, sufficient for TEA to assign an accountability rating. The public charter district would retain authority to operate contingent on satisfactory student performance, as provided by the charter. The bill specifies which regulations and requirements would apply to public charter districts and states that they would be entitled to the same level of services provided to school districts by regional education service centers.

Licenses. All existing charter holders would have to apply for a license following procedures outlined in the bill. The SBOE could approve or deny applications based on criteria it adopted and on financial, governing, and operational standards adopted by TEA. The SBOE would have to adopt criteria relating to improving student performance and encouraging innovative programs and criteria relating to the educational benefit for the students residing in the geographic area to be served. A public charter district could not begin operations until TEA certified that the district had implemented acceptable administrative and accounting systems.

TEA immediately would have to grant a charter on or before August 1, 2008, to:

- a governmental entity holding an existing charter;
- charter holders that served primarily students in residential facilities; and
- an eligible entity holding a charter on January 1, 2007, if at least 25 percent of students passed assessment tests for mathematics and for language arts in the 2006-07 school year and the entity's assets equaled or exceeded liabilities in fiscal 2006 or its total liabilities exceeded its assets by not more than 20 percent of total expenditures.

Entities that met the financial requirements but did not meet the academic performance requirements could have test scores averaged for the 2005-06 and 2006-07 school year. This exception also would apply to schools affected by Hurricane Rita.

Eligible entities holding multiple charters before January 1, 2007, could not combine those charters, but would have to retain each of the individual charters, which would count toward the limit of 215 charters. Revisions of the conditions of a charter, including maximum student enrollment, could be made only with TEA approval. TEA could approve a

revision to a charter only if the district had operated one or more campuses for at least three school years, had not been rated accredited-warned or accredited-probation, each campus had been rated at least academically acceptable for the past three years, and had met other standards specified in the bill.

Revision or revocation of a charter. TEA could modify, place on probation, or revoke a charter without a hearing if the commissioner determined that the charter holder committed a material violation of the charter, failed to satisfy generally accepted accounting standards of fiscal management, failed to protect the health, safety, welfare or best interests of the students, or failed to comply with regulations governing charter schools. Charter holders could appeal a revocation only by following procedures outlined in the bill and otherwise could not appeal to the commissioner or to a district court. If a charter were revoked or if a district surrendered its charter, the district could not continue to operate or receive state funds.

State funding. A charter holder would be entitled to receive state funding under Education Code, Ch. 42, as if it were a school district without a local share or local revenue. Public charter districts would be entitled to receive funds available to other school districts from TEA, including grant funds, provided that the district submitted appropriate fiscal and financial records and required PEIMS information to TEA. The agency would have to adopt rules to provide and account for state funding of public charter districts.

Facilities funding. Charter holders would be eligible for a facilities allotment of up to \$1,000 per student in average daily attendance (ADA) if any campus had for two consecutive years been rated exemplary or recognized under state accountability standards and had satisfied fiscal management standards. These charter holders would continue to be eligible for facilities funding unless they received an accountability rating of unacceptable. Facilities funds could be used only to:

- purchase property on which to construct an instructional facility;
- purchase, lease, construct, expand or renovate instructional facilities;
- pay debt service on instructional facilities; or
- maintain and operate instructional facilities.

Charter school governance. The bill specifies that the governing body of a charter holder, which would consist of at least five members, would be responsible for the management, operation, and accountability of the public charter district, regardless of whether the governing body delegated its powers and duties to another person. TEA would have to adopt rules for board training.

The bill would establish new regulations for charter school management companies and specify that management companies would be liable for damages incurred by the state or a school district for failure of the company to comply with its contractual or other legal obligations.

The attorney general could bring suit against board members for breach of fiduciary responsibility or management companies for damages incurred by the state.

Audits and subpoena power. TEA could audit the records of a public charter district or campus, a charter holder, and a management company but would have to limit the audit to matters directly related to management or operations. TEA could not conduct more than one on-site audit per fiscal year without specific cause. TEA could issue a subpoena to compel the attendance and testimony of a witness or the production of materials relevant to an audit or investigation. The subpoena power would expire September 1, 2009.

Receivership. The bill would establish procedures for receivership and disposition of assets of a charter school that previously held a charter but was not authorized to operate as a public charter district or elected not to operate as a public charter district.

Blue Ribbon Charter Campus Pilot Program. SB 4 would allow TEA to authorize up to three charter holders to grant a charter to an eligible entity to operate a “blue ribbon” charter campus if the new charter replicated a distinctive education program, the charter holder had demonstrated the ability to replicate its program, and the program to be replicated had been in operation for at least seven years and had been rated recognized or exemplary for at least five years. A charter holder could grant no more than two blue ribbon charters. These charters would not be subject to the limit on the number of charters issued in the state. The governing body issuing the charter would be responsible for the management and operation of the campus operated under the blue ribbon

charter and would be eligible to receive state funding as if the campus were a campus of the public charter district.

Advanced technical academies. A college or university charter school could operate as advanced technical academies, which would focus on advanced career and technology education, allow students to combine high school and college courses in grades 9-12, and allow participating students to receive an associate's degree or trade or occupation certificate within five years of starting high school. The program would have to provide flexible class scheduling and academic mentoring, and would be designed based on input from employers. Paid student internships, arranged through local chambers of commerce, local employers, and the Texas Workforce Commission, also would be incorporated into the program.

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, 2007 unless otherwise specified.

**SUPPORTERS
SAY:**

SB 4 would give TEA the tools it needs to weed out and shut down low-performing charter schools while establishing a framework to nourish successful charter programs so that they could fulfill the original purpose that the state envisioned when it began offering charters in 1995. There are many high-performing charter programs in the state that need additional support in order to succeed. These programs should have access to comparable funding, including facilities funding, as regular public schools.

The bill would reward the highest performing charter schools by providing them with facilities funding of \$1,000 per student in ADA. The lack of state facilities funding is the single biggest problem facing most charter schools, and SB 4 would begin to address this problem.

Many charter schools that serve the most difficult-to-educate students have met or exceeded state accountability standards. Those charter schools that cannot meet these accountability standards should not be allowed to continue to operate year after year.

**OPPONENTS
SAY:**

Many of the charter schools that would be closed under SB 4 are offering opportunities for the most difficult-to-educate students, including those who otherwise would drop out of school altogether. These schools should

not be judged solely on test scores and compared to other public schools that serve a much different student population. Instead, another set of criteria should be used to measure their success.

Charter schools that receive an accountability rating of adequate also should have access to facilities funding. State support for facilities funding is the greatest need facing charter programs, and programs that are meeting basic standards should not be denied this support.

OTHER
OPPONENTS
SAY:

The state should not commit to providing facilities funding for charter schools until it addresses the disparities and lack of facilities funding for its regular public schools.

Although SB 4 would allow TEA to deny charters to the lowest-performing schools, many others that have produced mediocre results likely would have their charters approved. Even though many charter schools perform more poorly than their public school counterparts, they are not subject to the same scrutiny regarding the use of public funds. The bill would not go far enough in ensuring that TEA would hold all charter schools to the same academic and financial accountability standards as public schools, such as class-size limits and minimum teacher qualifications.

NOTES:

According to the fiscal note, SB 4 would cost \$18.4 million in fiscal 2008-09, of which \$16.4 million would come from the Foundation School Fund.