

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1830  
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Education  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Charter schools were adopted in Texas to provide additional educational opportunities for students in the public school system. Charter schools, through the use of different and innovative learning methods, have proven to be extremely popular and successful in meeting the educational needs of many students. Open-enrollment charter schools have been particularly successful at meeting the needs of at-risk students and students seeking a college preparatory school. In 2008, almost 114,000 students attended a charter school, with another 16,810 on waiting lists.

C.S.S.B. 1830 amends current law relating to the establishment, operation, and funding of open-enrollment charter schools.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education (commissioner) in SECTION 1 (Section 12.101, Education Code) and SECTION 9 (Section 12.134, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 4 (Section 12.1101, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 12.101, Education Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Prohibits the State Board of Education (SBOE) from granting more than 20 new charters for an open-enrollment charter school each state fiscal year, rather than a total of more than 215 charters for an open-enrollment charter school.

(b-1) Authorizes a charter holder to establish one or more new open-enrollment charter school campuses under a charter without applying for authorization from SBOE if:

(1) 90 percent or more of the open-enrollment charter school campuses operating under the charter are rated as academically acceptable or higher under Subchapter D (Accreditation Status), Chapter 39 (Public School System Accountability) for the two preceding school years;

(2) either no campus operating under the charter has been rated as academically unacceptable for any two of the three preceding school years or such a campus has been closed;

(3) the charter holder satisfies generally accepted accounting standards of fiscal management;

(4) the charter holder provides written notice, in the time, manner, and form provided by the commissioner of education (commissioner) rule, to SBOE and the commissioner of the establishment of any campus under this subsection; and

(5) not later than the 90th day after the date the charter holder provides written notice under Subdivision (4), the commissioner does not provide written notice to the charter holder that the charter holder may establish a new campus under this section.

SECTION 2. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1011, as follows:

Sec. 12.1011. AUTHORIZATION FOR GRANT OF CHARTERS FOR SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) Authorizes SBOE to grant under Section 12.101 a charter on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students with disabilities, including students with autism. Provides that not more than 20 percent of the charters granted under Section 12.101 in a state fiscal year may be granted to a school described by this subsection.

(b) Provides that for the purposes of the applicability of state and federal law, including a law prescribing requirements concerning students with disabilities, an open-enrollment charter school described by Subsection (a) is considered the same as any other school for which a charter is granted under Section 12.101.

(c) Authorizes a parent of a student with a disability, to the fullest extent permitted under federal law, to choose to enroll the parent's child in an open-enrollment charter school described by Subsection (a) regardless of whether a disproportionate number of the school's students are students with disabilities.

(d) Provides that this section does not authorize an open-enrollment charter school to discriminate in admissions or in the services provided based on the presence, absence, or nature of an applicant's or student's disability.

SECTION 3. Amends Section 12.104, Education Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Creates an exception under Subsection (e).

(e) Authorizes the commissioner, in computing dropout and completion rates for an open-enrollment charter school, to exclude students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate; and exclude students who were previously reported to the state as dropouts.

SECTION 4. Amends Section 12.1101, Education Code, as follows:

Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION. Requires the commissioner by rule to adopt a procedure for providing notice to 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 each member of the legislature that represents the geographic area to be served by the proposed school or campus, as determined by the commissioner, on receipt by SBOE of an application for a charter for an open-enrollment charter school under Section 12.110 (Application) or on receipt by SBOE and the commissioner of notice of the establishment of a campus as authorized under Section 12.101(b-1).

SECTION 5. Amends Section 12.111(a), Education Code, as follows:

(a) Requires each charter granted under this subchapter to specify the period for which the charter or, consistent with Section 12.116(b-1), any charter renewal is valid; provide that continuation or renewal of the charter is contingent on the status of the charter as provided by Section 12.116(b-1); and specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked, rather than specify any basis, in addition to a basis specified by this subchapter, on which the charter

may be placed on probation or revoked or on which renewal of the charter may be denied. Deletes existing text requiring each charter granted under this subchapter to provide that continuation or renewal of the charter is contingent on acceptable student performance on assessment instruments adopted under Subchapter B (Assessment of Academic Skills), Chapter 39 (Public School System Accountability), and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter; and establish the level of student performance that is considered acceptable for purposes of Subdivision (3). Makes nonsubstantive changes.

SECTION 6. Amends Section 12.115, Education Code, as follows:

Sec. 12.115. New heading: BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION. (a) Authorizes the commissioner to modify, place on probation, or revoke, rather than or deny renewal of, the charter of an open-enrollment charter school if the commissioner determines that the charter holder committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter; failed to satisfy generally accepted accounting standards of fiscal management; failed to protect the health, safety, or welfare of the students enrolled at the school; or failed to comply with this subchapter or another applicable law or rule.

(b) Requires that the action the commissioner takes under Subsection (a) be based on certain considerations, including, the accreditation status of the school under Section 39.072 (Accreditation Standards).

SECTION 7. Amends Section 12.116, Education Code, by adding Subsection (a-1) and (b-1) and amending Subsection (b), as follows:

(a-1) Requires the commissioner to revoke the charter of an open-enrollment charter school in accordance with the procedure adopted under Subsection (a) if, after all information required for determining a performance rating has been considered, the commissioner determines that the school is insolvent as a result of recovery of overallocated state funds under Section 42.258(a) (relating to the recovery of overallocated funds).

(b) Requires the commissioner to revoke the charter of an open-enrollment charter school without a hearing if each campus operated under the school's charter has been ordered closed under Section 39.1324(d) (relating to a campus not fully implementing a school improvement plan), (e) (relating to a campus that is considered an academically unacceptable for the subsequent school year after the campus is reconstituted under this section), or (f) (relating to a campus that is considered an academically unacceptable for two consecutive school years after the campus is reconstituted under Subsection (a)). Deletes existing text requiring the procedure adopted under Subsection (a) to provide an opportunity for a hearing to the charter holder and to parents and guardians of students in the school. Deletes existing text requiring that a hearing under this subsection to be held at the facility at which the program is operated.

(b-1) Requires the procedure adopted under Subsection (a) for denying renewal of the charter of an open-enrollment charter school to provide that the charter automatically renews unless the school's charter is revoked under Subchapter G, Chapter 39, before the expiration of a charter term. Requires that the term for which a charter is renewed be not less than 10 years.

SECTION 8. Amends Section 12.119(c), Education Code, to require SBOE, on request, to provide the information required by this section and Section 12.111(a)(7) (relating to requiring each charter granted under this subchapter to specify the grade levels to be offered), rather than 12.111(8), to a member of the public.

SECTION 9. Amends Subchapter D, Chapter 12, Education Code, by adding Sections 12.134 and 12.135, as follows:

12.134. COLOCATION AGREEMENT BETWEEN SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER SCHOOL. (a) Provides that this section applies to a school district that leases a district facility for the operation of an open-enrollment charter school to be colocated on a district campus and enters into an agreement with the charter school as provided by Subsection (d).

(b) Authorizes the board of trustees of a school district to elect to have a date regarding the academic performance of students enrolled in the open-enrollment charter school combined with comparable data of the colocated district campus in determining the academic performance of the campus and the district.

(c) Requires the board of trustees of a school district that elects under Subsection (b) to have academic data combined to annually file with the Texas Education Agency (TEA) a copy of the lease and agreement described by Subsection (a).

(d) Provides that the agreement between the school district and the open-enrollment charter school is required to establish terms for sharing instructional or other specified resources, such as professional development; is required to specify for each year factors for identifying a student who will be served by the charter school in the leased facilities, which may include certain factors; is authorized to prohibit the charter school from enrolling students at the leased facilities other than those identified under factors designated in the agreement; and is required to require the district and the charter school to adopt measures, as required by commissioner rule, such as using different numerical codes for reporting information through the Public Education Information Management System (PEIMS), so that data remains identifiable as that of the district or of the school, as applicable.

Sec. 12.135. EDUCATIONAL SERVICES AGREEMENT BETWEEN SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER SCHOOL. (a) Entitles the school district, notwithstanding Chapter 41 (Equalized Wealth Level) or 42 (Foundation School Program), and in addition to any other funds to which a school district may be entitled, if the board of trustees of the district enters into an agreement under this section with an open-enrollment charter school for the charter school to provide educational services to a student enrolled in school in the district, to receive the greater of the amount the charter school would receive under Section 12.106 (State Funding) if the student were enrolled in the charter school or the amount to which the district is entitled under Chapters 41 and 42 for the student.

(b) Authorizes the board of trustees of a school district that enters into an agreement described by Subsection (a) with an open-enrollment charter school to elect to have the state and federal funds attributable to the students educated by the charter school paid directly to the charter school. Requires a school district that makes such an election to make an annual declaration of the election to TEA in a manner determined by the commissioner. Provides that the district remains responsible for any overallocation or audit recovery of state or federal funds as determined by the commissioner.

SECTION 10. Amends Sections 39.202 and 39.203, Education Code, as follows:

Sec. 39.202. DEVELOPMENT AND IMPLEMENTATION. (a) Requires the commissioner, in consultation with the comptroller of public accounts, to develop and implement a financial accountability rating system for school districts and open-enrollment charter schools in this state that distinguishes among school district and open-enrollment charter schools based on levels of financial performance, and includes procedures to enable the commissioner and school district and open-enrollment charter school administrators to provide meaningful financial oversight and improvement.

(b) Requires that the system include uniform indicators adopted by the commissioner by which to measure a district's or open-enrollment charter school's financial management performance.

Sec. 39.203. REPORTING. (a) Requires the commissioner to develop, as part of the system, a reporting procedure under which each school district and open-enrollment charter school is required to prepare and distribute an annual financial management report.

(b) Requires that the annual financial management report include a description of the district's or school's financial management performance based on comparison, provided by TEA, of the district's or school's performance on the indicators adopted under Section 39.202(b) to state-established standards, and the district's or school's previous performance in the indicators.

(c) Authorizes the report to include, if applicable, certain information concerning the district or school.

(d) Requires the board of trustees (board) of each school district and the governing body of each open-enrollment charter school to hold a public hearing on the report. Requires the board to give notice of the hearing to, as applicable, owners of real property in the district and to parents of district students or to owners of real property in the district in which the open-enrollment charter school is located and to the parents of school students.

(e) Requires that the report, after the hearing, be disseminated in the district or in the district in which the open-enrollment charter school is located in the manner prescribed by the commissioner.

SECTION 11. Repealer: Section 12.113(b) (relating to the grant of charter not creating an entitlement to a renewal of a charter on the same terms as it was originally issued), Education Code.

SECTION 12. Provides that this Act applies beginning with the 2009-2010 school year.

SECTION 13. Effective date: upon passage or September 1, 2009.