

## **BILL ANALYSIS**

Senate Research Center  
83R10243 CAS-D

S.B. 2  
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Education  
2/20/2013  
As Filed

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

In 1995, the 74th Legislature passed legislation to allow public charter schools to operate in Texas. Since then, public charter schools have served an increasing number of students across the state. Current law caps the number of open-enrollment charter schools at 215. The cap effectively deters many innovative educators and groups from developing or starting a charter school in Texas because the cap is perpetually close to being reached. Existing charter schools have struggled with a variety of outdated laws and policies that prevent the expansion of effective charters. Because charter schools do not have a local tax base, most charter schools struggle to find suitable facilities for a school. In addition, many poor performing existing charters have been able to remain open because of ineffective laws governing public charters.

S.B. 2 is a comprehensive bill to overhaul the laws relating to authorizing, governing, and establishing charter schools in Texas. It lifts the cap on charter schools, establishes a separate trained board to authorize all charter schools, provides the commissioner of education with specific direction on closing poor performing charter schools, restructures the renewal terms of charters, and provides for limited facility funding. In addition, S.B. 2 provides for a local school district to convert to a home-rule charter school upon the majority vote of the local school board.

As proposed, S.B. 2 amends current law relating to charter schools and home-rule charter school districts, including establishment of the Charter School Authorizing Authority.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education (commissioner) in SECTION 1 (Section 11.1542, Education Code) of this bill.

Rulemaking authority is expressly granted to the Charter School Authorizing Authority (authority) in SECTION 3 (Section 12.007, Education Code) and SECTION 28 (Section 12.1141, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is transferred to the authority in SECTION 11 (Section 12.028, Education Code), SECTION 14 (Section 12.059, Education Code), SECTION 24 (Section 12.111, Education Code), and SECTION 54 of this bill.

Rulemaking authority previously granted to the commissioner is transferred to the authority in SECTION 23 (Section 12.1101, Education Code), SECTION 33 (Section 12.1162, Education Code), SECTION 41 (Section 12.123, Education Code), SECTION 45 (Section 12.128, Education Code), SECTION 47 (Section 12.153, Education Code), and SECTION 54 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 11, Education Code, by adding Sections 11.1542 and 11.1543, as follows:

Sec. 11.1542. OPEN-ENROLLMENT CHARTER SCHOOL OFFER FOR INDEPENDENT SCHOOL DISTRICT FACILITY. (a) Requires the commissioner of education (commissioner) by rule to adopt a procedure and criteria for determining whether an independent school district facility or a portion of a district facility is unused

or underutilized by the district. Requires the commissioner, each year, using the procedure and criteria adopted, to identify for each district any district facility or any portion of a district facility that is unused or underutilized. Requires the Texas Education Agency (TEA), each year, to post on TEA's Internet website a list of each district's unused or underutilized facilities and portions of facilities. Requires a district, at the request of an open-enrollment charter school, to provide to the charter school a list of unused and underutilized district facilities and portions of district facilities as identified by the commissioner.

(b) Provides that this subsection applies only to a school district facility or a portion of a district facility identified by the commissioner under Subsection (a) as being unused or underutilized by the district. Requires the district, if the charter holder of an open-enrollment charter school makes a written offer to a district facility identified as being unused or underutilized, to enter into an agreement to lease or sell, as applicable, the facility or the portion of the facility to the charter holder for use by the open-enrollment charter school for classroom instruction. Requires that the price for the lease or sale be \$1.

(c) Requires that the facility or the portion of the facility, if a charter holder who enters into a lease or purchase agreement for a district facility or a portion of a district facility under Subsection (b) does not, on or before the second anniversary of the date of the agreement, begin using the facility or the portion of the facility for open-enrollment charter school classroom instruction, be placed again on the commissioner's list under Subsection (a).

(d) Requires the charter holder, if a charter holder to whom a district facility is sold under Subsection (b) subsequently sells or transfers the facility to a third party, to pay an amount equal to the amount of any gain in the property minus the adjusted basis, including costs of improvements to the facility, to the district from which the charter holder purchased the facility. Provides that this subsection applies to a subsequent sale or transfer by the charter holder even if the charter holder is represented as a different entity. Requires that the amount of any gain and the adjusted basis for purposes of determining gain, for purposes of this subsection, be determined in accordance with applicable federal law and regulations.

Sec. 11.1543. CHARTER SCHOOL PAYMENT FOR FACILITIES USE OR FOR SERVICES. (a) Prohibits an independent school district from requiring a campus or campus program that has been granted a charter under Subchapter C (Campus or Campus Program Charter), Chapter 12 (Charters), and that is the result of the conversion of the status of an existing school district campus to pay rent for or to purchase a facility in order to use the facility.

(b) Prohibits an independent school district from requiring a campus or campus program described by Subsection (a) or an open-enrollment charter school to pay for any service provided by the district under a contract between the district and the campus, campus program, or open-enrollment charter school an amount that is greater than the amount of the actual costs to the district of providing the service.

SECTION 2. Amends Subchapter A, Chapter 12, Education Code, by adding Section 12.004, as follows:

Sec. 12.004. DEFINITION. Defines "authority" in this chapter.

SECTION 3. Amends Chapter 12, Education Code, by adding Subchapter A-1, as follows:

#### SUBCHAPTER A-1. CHARTER SCHOOL AUTHORIZING AUTHORITY

Sec. 12.007. ESTABLISHMENT; POWERS AND DUTIES. (a) Provides that the Charter School Authorizing Authority (authority) is established to oversee the operations of charter schools in accordance with this chapter, including:

(1) granting charters for:

(A) open-enrollment charter schools under Subchapter D (Open-Enrollment Charter School); and

(B) college or university or junior college charter schools under Subchapter E (College or University or Junior College Charter School);

(2) revoking charters and imposing other sanctions in accordance with Subchapters B (Home-Rule School District Charter), D, and E; and

(3) monitoring charter holders of open-enrollment charter schools under Subchapter D.

(b) Requires the authority to adopt rules as required by this chapter and authorizes the authority to adopt other rules as authorized by this chapter.

Sec. 12.0071. COMPOSITION. Provides that the authority is composed of seven members appointed as follows:

(1) four members appointed by the governor, one of whom must be appointed from a list of candidates submitted to the governor by the speaker of the house of representatives;

(2) one member appointed by the lieutenant governor;

(3) one member appointed by the chair of the State Board of Education (SBOE); and

(4) one member appointed by the commissioner.

Sec. 12.0072. ELIGIBILITY FOR APPOINTMENT. Requires a person, to be eligible to be appointed as a member of the authority, to have demonstrated expertise in at least one of the following:

(1) public or nonprofit governance;

(2) management and finance;

(3) public charter school leadership;

(4) school assessment, curriculum, and instruction; or

(5) public school law.

Sec. 12.0073. TERMS; VACANCY. (a) Provides that the members of the authority serve staggered four-year terms, with the terms of either three or four members expiring February 1 of each odd-numbered year.

(b) Requires that a vacancy on the authority be filled in the same manner as the original appointment for that position.

(c) Requires the initial members appointed, notwithstanding Subsection (a), to determine by lot which three of the seven initial members will serve terms that expire February 1, 2015, and which four of the seven initial members will serve terms that expire February 1, 2017. Provides that this subsection expires January 1, 2018.

Sec. 12.0074. PRESIDING OFFICER. Requires the governor to designate a member of the authority as the presiding officer of the authority to serve in that capacity at the pleasure of the governor.

Sec. 12.0075. MEETINGS. Requires the authority to meet at the call of the presiding officer or at least four members.

Sec. 12.0076. REIMBURSEMENT. Provides that a member of the authority is not entitled to compensation for service as a member of the authority but is entitled to

reimbursement for actual and necessary expenses incurred in performing functions as an authority member, as provided in the General Appropriations Act.

Sec. 12.0077. SEPARATION OF AUTHORITY AND AGENCY RESPONSIBILITIES. Requires the authority, in coordination with TEA, to develop and implement policies that clearly separate the policymaking responsibilities of the authority and the management responsibilities of TEA.

Sec. 12.0078. AGENCY SUPPORT SERVICES. Requires TEA, to the extent needed by the authority to carry out the authority's powers and duties and as agreed to by the authority and TEA, to provide the authority with services, including fiscal, administrative, and personnel services and legal services not provided by the attorney general.

Sec. 12.0079. INITIAL APPOINTMENTS. Requires that the initial appointments to the authority be made as soon as practicable after the effective date of this subchapter. Provides that this section expires September 1, 2014.

SECTION 4. Amends Section 12.013(b), Education Code, as follows:

(b) Provides that a home-rule school district is subject to:

(1) Makes no change to this subdivision;

(2) Makes a nonsubstantive change;

(3) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to computation and distribution of state aid under Chapters 31 (Instructional Materials), 42 (Foundation School Program), and 43 (Permanent School Fund and Available School Fund); equalized wealth under Chapter 41 (Equalized Wealth Level); a bond or other obligation or tax rate under Chapters 42, 43, and 45 (School District Funds); and purchasing under Chapter 44 (Fiscal Management); and

(4) any prohibition, restriction, or requirement, as applicable, imposed on an open-enrollment charter school under Section 12.104(b).

Deletes existing text of paragraphs under Subdivision (3) providing that a home-rule school district is subject to a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

educator certification under Chapter 21 (Educators) and educator rights under Sections 21.407 (Requiring or Coercing Teachers to Join Groups, Clubs, Committees, or Organizations: Political Affairs), 21.408 (Right to Join or Not to Join Professional Association), and 22.001 (Salary Deductions for Professional Dues);

criminal history records under Subchapter C (Criminal History Records), Chapter 22 (School District Employees and Volunteers);

student admissions under Section 25.001 (Admission);

school attendance under Sections 25.085 (Compulsory School Attendance), 25.086 (Exemptions), and 25.087 (Excused Absences);

inter-district or inter-county transfers of students under Subchapter B (Assignments and Transfers), Chapter 25 (Admission, Transfer, and Attendance);

elementary class size limits under Section 25.112 (Class Size), in the case of any campus in the district that fails to satisfy any standard under

Section 39.054(e) (related to required components of an annual performance review);

high school graduation under Section 28.025 (High School Diploma and Certificate);

special education programs under Subchapter A (Special Education Program), Chapter 29 (Educational Programs);

bilingual education under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29;

prekindergarten programs under Subchapter E (Kindergarten and Prekindergarten Programs), Chapter 29;

safety provisions relating to the transportation of students under Sections 34.002 (Safety Standards), 34.003 (Operation of School Buses), 34.004 (Standing Children), and 34.008 (Contract With Transit Authority, Commercial Transportation Company, or Juvenile Board);

extracurricular activities under Section 33.081 (Extracurricular Activities);

health and safety under Chapter 38 (Health and Safety); and

public school accountability under Subchapters B (Assessment of Academic Skills), C (Accreditation), D (Financial Accountability), E (Accreditation Interventions and Sanctions), and J (Parent and Educator Reports), Chapter 39 (Public School System Accountability).

Makes nonsubstantive changes.

**SECTION 5.** Amends Section 12.014, Education Code, as follows:

Sec. 12.014. **APPOINTMENT OF CHARTER COMMISSION.** Requires the board of trustees of a school district to appoint a charter commission to frame a home-rule school district charter if:

(1) the board receives a petition requesting the appointment of a charter commission to frame a home-rule school district charter signed by at least five percent of the registered voters of the district; or

(2) a majority, rather than at least two-thirds, of the total membership of the board adopts a resolution ordering that a charter commission be appointed.

**SECTION 6.** Amends Section 12.018, Education Code, as follows:

Sec. 12.018. **LEGAL REVIEW.** Requires the charter commission to submit the proposed charter to the authority, rather than to the commissioner. Requires the authority, rather than the commissioner, as soon as practicable, but not later than the 30th day after the date the authority, rather than the commissioner, receives the proposed charter, to review the proposed charter to ensure that the proposed charter complies with any applicable laws and to recommend to the charter commission any modifications necessary. Provides that if the authority, rather than the commissioner, does not act within the prescribed time, the proposed charter is approved.

**SECTION 7.** Amends Sections 12.020(a), (b), and (c), Education Code, as follows:

(a) Authorizes the governing body of a home-rule school district on its own motion to submit a proposed charter amendment that complies with this subchapter to the authority, rather than to the commissioner, for legal review.

(b) Requires the governing body to submit a proposed charter amendment that complies with this subchapter to the authority, rather than to the commissioner, for legal review if a petition submitted to the governing body proposing the charter amendment is signed by at least five percent of the registered voters of the district.

(c) Requires the authority, as soon as practicable, but not later than the 30th day after the date on which the authority receives the proposed amendment, to review the proposed amendment to ensure that the proposed amendment complies with any applicable laws and to recommend any modifications necessary, rather than requiring the commissioner, as soon as practicable, but not later than the 30th day after the date on which the requirements for an election under Subsection (a) or (b) are satisfied, to review the proposed amendment to ensure that the proposed amendment complies with any applicable laws and to recommend any modifications necessary. Makes a conforming change.

SECTION 8. Amends Section 12.021, Education Code, as follows:

Sec. 12.021. ADOPTION OF CHARTER OR CHARTER AMENDMENT. (a) Provides that a proposed home-rule school district charter or a proposed charter amendment is adopted if approved by a vote of a majority of the total membership of the governing body of the school district, rather than providing that subject to Section 12.022 (Minimum Voter Turnout Required), a proposed home-rule school district charter or a proposed charter amendment is adopted if approved by a majority of the qualified voters of the district voting at an election held for that purpose.

(b) Requires the governing body of the school district to enter an order not later than the 10th day after the date the governing body votes to approve the charter or charter amendment, rather than requiring the governing body to enter an order not later than the 10th day after the date the canvass of the election returns is completed.

(c) Requires the governing body of the school district, as soon as practicable after a school district adopts a home-rule school district charter or charter amendment, to notify the authority of the adoption, rather than requiring the board of trustees or governing body, as soon as practicable after a school district adopts a home-rule school district charter or charter amendment, to notify the commissioner of the outcome of the election.

SECTION 9. Amends Section 12.023(a), Education Code, to require the president of the governing body, rather than of the board of trustees, as soon as practicable after a school district adopts a home-rule school district charter or charter amendment, to certify to the secretary of state (SOS) a copy of the charter or amendment showing the approval by the governing body, rather than by the voters of the district.

SECTION 10. Amends Sections 12.027(a) and (b), Education Code, as follows:

(a) Authorizes the authority, rather than SBOE, to place on probation or revoke a home-rule school district charter of a school district if the authority, rather than SBOE, determines that the district committed a material violation of the charter, failed to satisfy generally accepted accounting standards of fiscal management, or failed to comply with this subchapter or other applicable federal or state law or rule.

(b) Requires that the action the authority, rather than SBOE, takes under Subsection (a) be based on the best interest of district students, the severity of the violation, and any previous violation the district has committed.

SECTION 11. Amends Section 12.028(a), Education Code, to require the authority, rather than SBOE, by rule to adopt a procedure to be used for placing on probation or revoking a home-rule school district charter.

SECTION 12. Amends Sections 12.030(b), (c), (f), and (g), Education Code, as follows:

(b) Requires the governing body of the district to vote, rather than to order an election, on the question of rescinding a home-rule school district charter if:

(1) the governing body receives a petition requesting a rescission vote, rather than a rescission election, signed by at least five percent of the registered voters of the district; or

(2) a governing body motion is made, in accordance with the governing body's procedural rules, for the governing body to vote on the question, rather than at least two-thirds of the total membership of the governing body adopt a resolution ordering that a rescission election be held.

(c) Requires the governing body, as soon as practicable after the date of receipt of a petition as described by Subsection (b)(1) or as soon as practicable after a motion is made as described by Subsection (b)(2), to vote on the question of rescinding a home-rule school district charter, rather than requiring the governing body, as soon as practicable after the date of receipt or adoption of a resolution under Subsection (b), to order an election.

(f) Provides that a home-rule school district charter is rescinded if the rescission is approved by a vote of a majority of the total membership of the governing body, rather than by a majority of the qualified voters of the district voting at an election held for that purpose at which at least 25 percent of the registered voters of the district vote.

(g) Provides that the rescission takes effect on a date established by resolution of the governing body but not later than the 90th day after the date the rescission is approved under Subsection (f), rather than not later than the 90th day after the date of an election held under this section at which rescission of the charter is approved and at which the number of registered voters required under Subsection (f) vote. Requires the governing body, as soon as practicable after that approval, rather than after that election, to notify the authority and SOS of the approval and of the effective date of the rescission, rather than requiring the governing body, as soon as practicable after that election, to notify the commissioner and SOS of the results of the election and of the effective date of the rescission. Makes a conforming change.

SECTION 13. Amends Section 12.056(b), Education Code, to provide that a campus or program for which a charter is granted under this subchapter is subject to certain conditions, including a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to public school accountability under Subchapter F (Procedures for Challenge of Accountability Determination, Intervention, or Sanction), Chapter 39, in addition to other provisions.

SECTION 14. Amends Section 12.059, Education Code, to require that each charter granted under this subchapter, in addition to other requirements, describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the school district in which it is located to participate, as required by this code or by rule of the authority, rather than by SBOE rule, in PEIMS.

SECTION 15. Amends Section 12.101, Education Code, by amending Subsections (a) and (b) and adding Subsections (b-1), (b-2), and (b-3), as follows:

(a) Authorizes the authority, rather than SBOE, in accordance with this subchapter, to grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district.

(b) Authorizes the authority, after thoroughly investigating and evaluating an applicant, to grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, curriculum development and implementation, and operational standards adopted by the authority under this subchapter, rather than authorizing SBOE to grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, and operational standards adopted by the commissioner under this subchapter. Deletes existing text prohibiting SBOE from granting a total of more than 215 charters for an open-enrollment charter school.

(b-1) Prohibits the authority from granting more than one charter for an open-enrollment charter school to any charter holder. Authorizes the authority to consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter

held by a single charter holder with the written consent to the terms of consolidation by each charter holder affected by the consolidation.

(b-2) Authorizes a charter holder to establish one or more new open-enrollment charter school campuses under an existing charter held by the charter holder if:

(1) each campus operating under the charter has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for the two preceding school years;

(2) the charter holder has been assigned a financial performance accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better;

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

(4) not later than the 60th day after the date the charter holder provides written notice under Subdivision (3), the authority does not provide written notice to the charter holder disapproving a new campus under this section.

(b-3) Provides that the initial term of a charter granted under this section is five years.

SECTION 16. Amends Section 12.102, Education Code, to provide that an open-enrollment charter school retains authority to operate under the charter to the extent authorized under Sections 12.1141 and 12.115 and Subchapter E, Chapter 39, rather than under the charter contingent on satisfactory student performance as provided by the charter in accordance with Section 12.111 (Content).

SECTION 17. Amends Section 12.104(b), Education Code, to provide that an open-enrollment charter school is subject to certain conditions, including a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to public school accountability under Subchapter F, Chapter 39;

SECTION 18. Amends Sections 12.1052(d) and (e), Education Code, as follows:

(d) Requires that the records of an open-enrollment charter school that ceases to operate be transferred in the manner specified by the authority, rather than by the commissioner, to a custodian designated by the authority, rather than by the commissioner. Makes conforming changes.

(e) Makes conforming changes.

SECTION 19. Amends Section 12.1053(a), Education Code, to provide that this section applies to an open-enrollment charter school unless the school's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the authority, rather than by SBOE.

SECTION 20. Amends Section 12.1057(a), Education Code, to require an employee of an open-enrollment charter school, rather than an employee of an open-enrollment charter school operating under a charter granted by SBOE, who qualifies for membership in the Teacher Retirement System of Texas (TRS) to be covered under TRS to the same extent a qualified employee of a school district is covered.

SECTION 21. Amends Section 12.106, Education Code, by adding Subsections (b-1) and (d), as follows:

(b-1) Provides that a charter holder is entitled to an instructional facilities allotment for a school year for a campus of an open-enrollment charter school for which the charter holder has been granted a charter. Provides that the amount of an allotment under this subsection is, for each student in average daily attendance during the preceding school year at the open-enrollment charter school campus, the statewide average amount per student in state funds paid to school districts under Section 46.003 (School Facilities



Allotment) during the preceding school year, based only on students attending school in districts that receive a school facilities allotment under that section, or a greater amount provided by appropriation. Authorizes a charter holder that receives funds under this subsection to use the funds only for an open-enrollment charter school campus for which the funds were paid and only to:

- (1) purchase real property on which to construct an instructional facility for the campus;
- (2) purchase, lease, construct, expand, or renovate instructional facilities for the campus;
- (3) pay debt service in connection with instructional facilities purchased or improved for the campus; or
- (4) maintain and operate instructional facilities for the campus.

(d) Requires the commissioner to withhold one percent of the funding a charter holder granted a charter on or after September 1, 2013, would otherwise be entitled to receive under Subsection (a). Authorizes money withheld under this subsection to be used only in paying the salary of any authority employee, TEA employee, or independent contractor assigned responsibility related to granting charters for open-enrollment charter schools or to overseeing or monitoring the operations and performance of open-enrollment charter schools.

SECTION 22. Amends Sections 12.110(a), (c), and (d), Education Code, as follows:

(a) Requires the authority, rather than SBOE, to adopt an application form and a procedure that must be used to apply for a charter for an open-enrollment charter school and criteria to use in selecting a program for which to grant a charter.

(c)-(d) Makes conforming changes.

SECTION 23. Amends Section 12.1101, Education Code, as follows:

Sec. 12.1101. New heading: NOTIFICATION OF CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. Requires the authority by rule to adopt a procedure for providing notice to certain persons on receipt by the authority of an application for a charter for an open-enrollment charter school under Section 12.110 (Application) or of notice of the establishment of a campus as authorized under Section 12.101(b-2), rather than requiring the commissioner by rule to adopt a procedure for providing notice to certain persons on receipt by SBOE of an application for a charter for an open-enrollment charter school under Section 12.110. Makes conforming changes.

SECTION 24. Amends Section 12.111(a), Education Code, as follows:

(a) Requires that each charter granted under this subchapter:

- (1) Makes no changes to this subdivision;
- (2) provide that continuation or renewal of the charter is contingent on the status of the charter as determined under Section 12.1141 or 12.115 or under Subchapter E, Chapter 39, rather than contingent on acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter;
- (3) specify any basis, in addition to a basis specified by this subchapter or Subchapter E, Chapter 39, on which the charter may be placed on probation or revoked, rather than on which the charter may be placed on probation or revoked or on which renewal of the charter may be denied;
- (4)-(9) Makes nonsubstantive changes to these subdivisions;

(10) describe the manner in which an annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the person providing the program will provide information necessary for the school district in which the program is located to participate, as required by this code or by commissioner, rather than by SBOE rule, in PEIMS; and

(11)-(13) Makes nonsubstantive changes to these subdivisions.

Deletes text of existing Subdivision (2) relating to the requirement that each charter granted under this subchapter specify the period for which the charter or any charter renewal is valid. Deletes text of existing Subdivision (4) relating to the requirement that each charter granted under this subchapter establish the level of student performance that is considered acceptable for purposes of Subdivision (3).

SECTION 25. Amends Section 12.112, Education Code, to require that a charter for an open-enrollment charter school be in the form of a written contract signed by the chair of the authority, rather than by the chair of SBOE, and the chief operating officer of the school.

SECTION 26. Amends Section 12.113(a), Education Code, to make conforming changes.

SECTION 27. Amends Section 12.114(a), Education Code, to authorize a revision of a charter of an open-enrollment charter school to be made only with the approval of the authority, rather than of the commissioner.

SECTION 28. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1141, as follows:

Sec. 12.1141. DENIAL OF RENEWAL OF CHARTER ON EXPIRATION OF INITIAL TERM; AUTOMATIC RENEWAL. (a) Provides that the charter, at the end of the initial term of a charter of an open-enrollment charter school, automatically renews without action by the authority, except that the authority is required, except as provided by Subsection (b), to deny renewal of the charter if:

(1) a campus operating under the charter has been assigned an unacceptable performance rating under Subchapter C, Chapter 39, for three of the five preceding school years and such a campus has not been closed; or

(2) the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance lower than satisfactory for three of the five preceding school years.

(b) Requires the authority, before the authority is authorized, at the end of the initial term, to deny the renewal of the charter of an open-enrollment charter school that is registered under TEA's alternative education accountability procedures for accountability evaluation purposes under Chapter 39, to consider, as an alternative to the criterion specified under Subsection (a)(1), academic criteria established under authority rule that are appropriate to measure the specific goals of that school, such as providing dropout recovery or providing education within a residential treatment facility.

(c) Requires the authority, not later than the 365th day before the last day of the initial term of a charter for an open-enrollment charter school, to provide written notice to the charter holder, in accordance with authority rule, of the basis on which a charter renewal may be denied under Subsection (a) or (b), as applicable.

(d) Requires the authority, before the authority is authorized, at the end of the initial term, to deny the renewal of the charter of an open-enrollment charter school, to provide the opportunity for a hearing to the charter holder and the parents and guardians of students of the school. Requires that a hearing under this subsection be held at the facility at which the school is operated. Provides that

Chapter 2001 (Administrative Procedure), Government Code, does not apply to a hearing under this subsection.

(e) Provides that a charter of an open-enrollment charter school that has been renewed at the end of the initial term of the charter automatically renews at the end of each successive charter term without action by the authority, except that the authority is required to deny renewal of the charter if the accreditation of the open-enrollment charter school has been revoked or the accreditation of any campus operating under the charter has been revoked and such a campus has not been closed.

(f) Provides that the term of a charter renewed under this section is 20 years for each renewal.

(g) Provides that a campus of an open-enrollment charter school rated as academically unacceptable under Subchapter D, Chapter 39, as that subchapter existed January 1, 2009, for the 2008-2009, 2009-2010, or 2010-2011 school year is considered to have been assigned an unacceptable performance rating for that school year under Subsection (a)(1). Requires the commissioner, for purposes of Subsection (a)(2), based on financial accountability reviews, to determine the appropriate financial accountability performance rating to be assigned to a charter holder for the 2008-2009 and 2009-2010 school years. Provides that this subsection expires September 1, 2016.

SECTION 29. Amends Section 12.115, Education Code, as follows:

Sec. 12.115. New heading: BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, OR MODIFICATION OF GOVERNANCE. (a) Requires the authority to modify, place on probation, or revoke the charter of an open-enrollment charter school or reconstitute the governing body of the charter holder or assign operation of a school campus to a different charter holder if the authority makes certain determinations about the charter holder, rather than authorizing the commissioner to modify, place on probation, revoke, or deny renewal of the charter of an open-enrollment charter school if the commissioner makes certain determinations about the charter holder.

(b) Requires that the action the authority takes under Subsection (a) be based on the best interest of the open-enrollment charter school's students, the severity of the violation, any previous violation the school has committed, and the accreditation status of the school, rather than requiring that the action the commissioner takes under Subsection (a) be based on the best interest of the school's students, the severity of the violation, and any previous violation the school has committed.

SECTION 30. Amends the heading to Section 12.116, Education Code, to read as follows:

Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION.

SECTION 31. Amends Sections 12.116(a) and (c), Education Code, as follows:

(a) Requires the authority to adopt a procedure to be used for modifying, placing on probation, or revoking the charter of an open-enrollment charter school, rather than requiring the commissioner to adopt a procedure to be used for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school.

(c) Makes a conforming change.

SECTION 32. Amends Section 12.1161(a), Education Code, as follows:

(a) Deletes an exception under Section 12.1161(b) (relating to continued operation and funding after denial of renewal of charter). Prohibits the school, if the authority revokes or denies the renewal of a charter of an open-enrollment charter school or an open-

enrollment charter school surrenders its charter, from continuing to operate under this subchapter or from receiving state funds under this subchapter.

SECTION 33. Amends Section 12.1162, Education Code, as follows:

Sec. 12.1162. ADDITIONAL SANCTIONS. (a) Requires the authority, rather than the commissioner, to take any of the actions described by Subsection (b) or by Section 39.102(a) (relating to required actions under certain circumstances), to the extent the authority, rather than the commissioner, determines necessary, if an open-enrollment charter school, as determined by a report issued under Section 39.058(b) (relating to the presentation of findings and the issuance of a report following an on-site TEA investigation):

- (1) commits a material violation of the school's charter;
- (2) fails to satisfy generally accepted accounting standards of fiscal management;  
or
- (3) fails to comply with this subchapter or another applicable rule or law.

(b) Authorizes the authority to direct the commissioner to temporarily withhold funding or to suspend the authority of an open-enrollment charter school to operate or take any other reasonable action the authority determines necessary, rather than authorizing the commissioner to temporarily withhold funding, suspend the authority of an open-enrollment charter school to operate, or take any other reasonable action the commissioner determines necessary, to protect the health, safety, or welfare of students enrolled at the school based on evidence that conditions at the school present a danger to the health, safety, or welfare of the students.

(c) Prohibits the open-enrollment charter school, after action is taken, rather than after the commissioner acts, under Subsection (b), from receiving funding and from resuming operating until a certain determination is made.

(d) Requires the authority, rather than the commissioner, not later than the third business day after the date action is taken under Subsection (b), rather than after the date the commissioner acts, to provide the charter holder an opportunity for a hearing.

(e) Requires the authority, immediately after a hearing under Subsection (d), to cease or direct the commissioner to cease the action under Subsection (b), as applicable, or initiate action under Section 12.116, rather than requiring the commissioner, immediately after a hearing under Subsection (d), to cease the action under Subsection (b) or initiate action under Section 12.116.

(f) Requires the authority, rather than the commissioner, to adopt rules implementing this section.

SECTION 34. Amends the heading to Section 12.1163, Education Code, to read as follows:

Sec. 12.1163. AUDIT BY AUTHORITY.

SECTION 35. Amends Sections 12.1163(a) and (c), Education Code, as follows:

(a) Authorizes the authority, rather than the commissioner, to the extent consistent with this section, to audit the records of certain entities.

(c) Prohibits the authority, rather than the commissioner, from conducting more than one on-site audit under Section 12.1163 during any fiscal year, including any financial and administrative records, unless the authority, rather than the commissioner, has specific cause to conduct an additional audit. Provides that, for purposes of this subsection, an audit of a charter holder or management company associated with an open-enrollment charter school is not considered an audit of the school.

SECTION 36. Amends Section 12.1164(a), Education Code, to require the authority, rather than the commissioner, to notify TRS in writing of the revocation, denial of renewal, or surrender of a charter under this subchapter not later than the 10th business day after the date of the event.

SECTION 37. Amends Sections 12.118(a) and (c), Education Code, as follows:

(a) Requires the authority to designate an impartial organization with experience in evaluating school choice programs to conduct, under the supervision of the authority, an annual evaluation of open-enrollment charter schools, rather than requiring the commissioner to designate an impartial organization with experience in evaluating school choice programs to conduct an annual evaluation of open-enrollment charter schools.

(c) Makes a conforming change.

SECTION 38. Amends Section 12.119, Education Code, as follows:

Sec. 12.119. BYLAWS; ANNUAL REPORT. (a) Requires a charter holder to file with the authority, rather than with SBOE, a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the authority, rather than by SBOE.

(b) Requires each open-enrollment charter school, each year within the period and in a form prescribed by the authority, rather than by SBOE, to file with the authority, rather than with SBOE, certain information.

(c) Requires the authority, rather than SBOE, on request, to provide the information required by this section and Section 12.111(a)(6), rather than by this section and Section 12.111(a)(8), to a member of the public. Makes conforming changes.

SECTION 39. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1211, as follows:

Sec. 12.1211. NAMES OF MEMBERS OF GOVERNING BODY LISTED ON WEBSITE. Requires an open-enrollment charter school to list the names of the members of the governing body on the home page of the school's Internet website.

SECTION 40. Amends Section 12.122(a), Education Code, as follows:

(a) Authorizes the attorney general, notwithstanding the Texas Nonprofit Corporation Law, on request of the authority, rather than of the commissioner, to bring suit against a member of the governing body of an open-enrollment charter school for breach of a fiduciary duty by the member, including misapplication of public funds. Makes nonsubstantive changes.

SECTION 41. Amends Section 12.123, Education Code, as follows:

Sec. 12.123. TRAINING FOR MEMBERS OF GOVERNING BODY OF SCHOOL AND OFFICERS. (a) Requires the authority, rather than the commissioner, to adopt rules prescribing training for members of governing bodies of open-enrollment charter schools and officers of open-enrollment charter schools.

(b) Authorizes the rules adopted under Subsection (a) to:

(1) Makes no changes to this subdivision;

(2) require the training to be provided by:

(A) TEA and regional education service centers;

(B) entities other than TEA and service centers, subject to approval by the authority, rather than by the commissioner; or

(C) both TEA, service centers, and other entities; and

(3) Makes no changes to this subdivision.

SECTION 42. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1231, as follows:

Sec. 12.1231. TRAINING FOR AGENCY EMPLOYEES. Requires each TEA employee assigned responsibility related to granting charters for open-enrollment charter schools or providing oversight or monitoring of charter holders or open-enrollment charter schools, not later than May 1, 2014, to participate in training on charter school authorization, oversight, and monitoring provided by a nationally recognized organization of charter school authorizers identified by the authority. Provides that this section expires January 1, 2015.

SECTION 43. Amends Section 12.126, Education Code, to authorize the authority, rather than the commissioner, to prohibit, deny renewal of, suspend, or revoke a contract between an open-enrollment charter school and a management company providing management services to the school if the authority, rather than the commissioner, determines that the management company has had certain failures or violations.

SECTION 44. Amends Section 12.127(b), Education Code, to authorize the attorney general, on request of the authority, rather than on request of the commissioner, to bring suit on behalf of the state against a management company liable under Subsection (a) (relating to a management company's liability for damages incurred as a result of the failure to comply with certain obligations) for damages, including any state funding received by the company and any consequential damages suffered by the state, for injunctive relief, or for any other equitable remedy determined to be appropriate by the court.

SECTION 45. Amends Sections 12.128(c) and (d), Education Code, as follows:

(c) Requires the authority, rather than the commissioner, to take possession and assume control of the property described by Subsection (a) of an open-enrollment charter school that ceases to operate and to supervise the disposition of the property in accordance with law.

(d) Authorizes the authority, rather than the commissioner, to adopt rules necessary to administer this section.

SECTION 46. Amends Section 12.135(a), Education Code, to authorize the authority, rather than the commissioner, on the application of the charter holder, to grant designation as a charter district to an open-enrollment charter school that meets financial standards adopted by the authority, rather than by the commissioner.

SECTION 47. Amends Sections 12.152, 12.153, and 12.154, Education Code, as follows:

Sec. 12.152. AUTHORIZATION. Deletes existing Subsection (a) designation. Authorizes the authority, rather than SBOE, in accordance with this subchapter and Subchapter D (Open-Enrollment Charter School), to grant a charter on the application of certain colleges or universities for an open-enrollment charter school under certain circumstances.

Sec. 12.153. RULES. Authorizes the authority, rather than the commissioner, to adopt rules to implement this subchapter.

Sec. 12.154. CONTENT. (a) Authorizes the authority, rather than SBOE, notwithstanding Section 12.110(d) (relating to the approval or denial of an application), to grant a charter under this subchapter to a public senior college or university only if certain criteria are satisfied in the public senior college's or university's application, as determined by the authority, rather than by SBOE.

(b) Authorizes the authority, rather than SBOE, notwithstanding Section 12.110(d), to grant a charter under this subchapter to a public junior college only if certain criteria are satisfied in the public junior college's application, as determined by the authority, rather than by SBOE.

SECTION 48. Amends Section 221.0071(a), Human Resources Code, to authorize the authority, rather than SBOE, notwithstanding any other law, rather than notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, to grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders under Section 51.12 (Place and Conditions of Detention), 51.125 (Post-Adjudication Correctional Facilities), or 51.126 (Nonsecure Correctional Facilities), Family Code.

SECTION 49. Amends Section 221.056(d), Human Resources Code, to require the authority, rather than SBOE, notwithstanding any other law, rather than notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, to grant a charter on the application of a residential treatment facility established under this section for a school chartered for the purposes of this section.

SECTION 50. Amends Section 1579.154(a), Insurance Code, as follows:

(a) Provides that a charter school is eligible to participate in the uniform group coverage program established under this chapter if the school agrees:

(1) that all records of the school relating to participation in the program are open to inspection by the trustee, the administering firm, the commissioner of education, the Charter School Authorizing Authority, or a designee of any of those entities, rather than by the trustee, the administering firm, the commissioner of education, or a designee of any of those entities; and

(2) to have the school's accounts relating to participation in the program annually audited by a certified public accountant at the school's expense.

SECTION 51. Repealer: Section 12.019 (Charter Election), Education Code;

Repealers: Sections 12.020(d) (relating to requiring the governing body of a home-rule district to order an election on a proposed charter amendment), (e) (relating to requiring that an election be held on the first uniform election date that occurs at least 45 days after the date the election is ordered), (f) (relating to requiring that the notice of the election include a substantial copy of the proposed charter amendment), (h) (relating to requiring that the ballot be prepared so that a voter can approve or disapprove certain charter amendments without having to approve or disapprove all of them), and (i) (relating to prohibiting the governing body of a home-rule district from ordering an election earlier than the first anniversary of the date of any previous election to amend the charter), Education Code;

Repealer: Section 12.022 (Minimum Voter Turnout Required), Education Code;

Repealers: Sections 12.030(d) (relating to holding an election on a date certain to vote on a proposition to rescind a home-rule school district charter) and (e) (relating to setting forth required language for the ballot to vote on a proposition to rescind a home-rule school district charter), Education Code;

Repealer: Section 12.113(b) (relating to providing that the grant of a charter does not create an entitlement to a renewal of a charter on the same terms as it was originally issued), Education Code;

Repealer: Section 12.1161(b) (relating to an open-enrollment charter school continuing to operate and receive state funds for the remainder of the school year if the commissioner denies renewal of the charter before the completion of that school year), Education Code; and

Repealer: Section 12.156(b) (relating to a college or university charter school or junior college charter school being considered under the limitation of the maximum number of open-enrollment charter schools), Education Code.

SECTION 52. Makes application of Section 11.1542, Education Code, as added by Act, prospective.

SECTION 53. (a) Provides that the amendment of Chapter 12, Education Code, by this Act to transfer authority for charter schools from SBOE and the commissioner to the authority does not affect the status of a charter, including any legal rights, duties, and obligations based on a charter, granted under Chapter 12, Education Code, before May 1, 2014.

(b) Provides that Section 12.101(b-1), Education Code, as added by this Act, does not affect the status of any charter for an open-enrollment charter school, including any legal rights, duties, and obligations based on a charter, that is among multiple charters granted to a single charter holder before September 1, 2013.

SECTION 54. (a) Provides that the following are effective May 1, 2014, except as provided by Subsection (b) of this section:

(1) all functions and activities performed immediately before that date by SBOE that specifically relate only to charter schools or by the commissioner under Chapter 12, Education Code, are transferred to the authority;

(2) a rule, form, policy, procedure, or decision of SBOE that specifically relates only to charter schools or of the commissioner under Chapter 12, Education Code, continues in effect as a rule, form, policy, procedure, or decision of the authority and remains in effect until amended or replaced by the authority;

(3) a reference in law or administrative rule to SBOE that specifically relates only to charter schools means the authority;

(4) all money, contracts, leases, rights, property, records, and bonds and other obligations of SBOE or of the commissioner under Chapter 12, Education Code, that specifically relate only to charter schools are transferred to the authority;

(5) a court case, administrative proceeding, contract negotiation, or other proceeding involving SBOE that specifically relates only to charter schools or involving the commissioner under Chapter 12, Education Code, is transferred without change in status to the authority, and the authority assumes, without a change in status, the position of SBOE or the commissioner, as applicable, in a negotiation or proceeding relating to an activity transferred by this Act to the authority to which SBOE or the commissioner, as applicable, is a party;

(6) an employee of SBOE assigned only or primarily to duties relating to charter schools becomes an employee of TEA; and

(7) any unexpended and unobligated balance of money appropriated by the legislature for SBOE for carrying out duties that specifically relate to charter schools is transferred to the authority.

(b) Provides that, notwithstanding Subsection (a) of this section, the commissioner remains responsible for administering state funding for purposes of Chapter 12, Education Code, to the same extent the commissioner had that responsibility on April 30, 2014.

(c) Provides that, in the period beginning on January 1, 2014, and ending on April 30, 2014:

(1) SBOE and the commissioner are required to continue to perform their respective functions and activities relating to charter schools as provided under the Education Code or other law as if the law had not been amended or repealed, as applicable, and the former law is continued in effect for that purpose; and

(2) a person who is authorized or required by law to take an action relating to SBOE, a member of SBOE, or the commissioner relating to charter schools is required to continue to take that action under the law as if the law had not been amended or repealed, as applicable, and the former law is continued in effect for that purpose.



SECTION 55. Authorizes SBOE, before May 1, 2014, to agree with the authority to transfer any property of SBOE to the authority to implement the transfer required by Section 54 of this Act.

SECTION 56. Effective date: September 1, 2013.