

BILL ANALYSIS

Senate Research Center
83R18981 E

C.S.S.B. 2
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Education
4/2/2013
Committee Report (Substituted)

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 Existing charter schools have struggled with a variety of outdated laws and policies that prevent the expansion of effective charters.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.

C.S.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, C.S.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.

C.S.S.B. 2 amends current law relating to certain charter schools.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the State Board of Education is transferred to the commissioner of education (commissioner) in SECTION 7 (Section 12.059, Education Code) and SECTION 18 (Section 12.111, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is transferred to the authority in SECTION 17 (Section 12.1101, Education Code), SECTION 26 (Section 12.1162, Education Code), SECTION 35 (Section 12.123, Education Code), SECTION 38 (Section 12.128, Education Code), and SECTION 40 (Section 12.153) of this bill.

Rulemaking authority is expressly granted to the commissioner in SECTION 8 (Section 12.101, Education Code), SECTION 12 (Section 12.1051, Education Code), SECTION 22 (Section 12.1141, Education Code), and SECTION 42 (Section 39.152, Education Code) of this bill.

Rulemaking authority is expressly granted to the authority in SECTION 23 (Section 12.115, Education Code) and SECTION 31 (Section 12.1181, Education Code) 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 DISTRICT FACILITY. (a) Requires the board of trustees of an independent school district (board of trustees) that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility to give each open-enrollment charter

school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board of trustees, before offering the facility for sale, lease, or use generally or to any other specific entity.

(b) Provides that this section does not require the board of trustees to accept an offer made by an open-enrollment charter school.

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 to mean the commissioner of education (commissioner).

SECTION 3. Amends Subchapter C, Chapter 12, Education Code, by adding Section 12.0522, as follows:

Sec. 12.0522. DISTRICT CHARTER AUTHORIZATION. (a) Authorizes the board of trustees or the governing body of a home-rule school district to grant a district charter to a campus to the extent allowed under this section, notwithstanding Section 12.052 (Authorization), in accordance with this subchapter and in a manner provided by this section.

(b) Authorizes a district charter, except as provided by Subsection (c), to only be granted under this section to campuses serving in total no more than 15 percent of the prior year student enrollment in the district. Prohibits this percentage limit from preventing a district from granting a district charter to at least one feeder pattern, including an elementary, middle, and high school.

(c) Authorizes a district charter to be granted to any campus that has received the lowest academic accountability rating under Chapter 39 (Public School System Accountability).

SECTION 4. Amends Section 12.055, Education Code, as follows:

Sec. 12.055. APPLICABILITY OF LAWS AND RULES TO CAMPUS OR PROGRAM GRANTED CHARTER. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Authorizes a school district to contract with another district or an open-enrollment charter school for services at a campus charter. Provides that employees of a district or open-enrollment charter school providing contracted services to a campus charter are eligible for membership in and benefits from the Teacher Retirement System of Texas (TRS) if they would be eligible for membership and benefits in the same position at the employing district or open-enrollment charter school.

SECTION 5. 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 6. Amends Section 12.057, Education Code, by adding Subsection (b-1), to require an employee of a charter holder, as defined by Section 12.1012 (Definitions), who is employed on a campus or program granted a charter under this subchapter and who qualifies for membership in the TRS to be covered under the system in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

SECTION 7. Amends Section 12.059, Education Code, to require that each charter granted under this subchapter:

- (1) Makes no change to this subdivision;
- (2) provide that continuation of the charter is contingent on satisfactory student performance under Subchapter B (Assessment of Academic Skills), Chapter 39, satisfactory financial performance under Subchapter D (Financial Accountability), Chapter 39, and compliance with other applicable accountability provisions under Chapter 39;
- (3) specify any basis, in addition to a basis specified by this subchapter, on which the charter is authorized to be revoked, rather than to be placed on probation or revoked;
- (4)-(6) Makes no change to these subdivisions; and
- (7) 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 commissioner rule, rather than State Board of Education (SBOE) rule, in the Public Education Information Management System (PEIMS).

SECTION 8. Amends Section 12.101, Education Code, by amending Subsections (a) and (b) and adding Subsections (b-0), (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), (b-7) and (b-8), as follows:

- (a) Authorizes the commissioner of education (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, rather than SBOE, after thoroughly investigating and evaluating an applicant, to grant a charter for an open-enrollment charter school only to an applicant that:
 - (1) the authority determines is:
 - (A) capable of carrying out the responsibilities provided by the charter; and
 - (B) likely to operate a school of high quality;
 - (2) meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter;
 - (3) has not within the past 10 years had a charter under this chapter or a similar charter issued under the laws of another state revoked, denied for renewal, returned, or surrendered under a settlement agreement; and
 - (4) is not, under rules adopted by the commissioner for this purpose, considered to be a corporate affiliate of or substantially related to an entity that has within the past 10 years had a charter under this chapter or a similar charter issued under the laws of another state revoked, denied for renewal, returned, or surrendered under a settlement agreement.

(b-0) Authorizes the commissioner to reject a proposed charter award under this section by a vote of at least two-thirds of the members of SBOE present and voting. Provides that the proposed charter award, if SBOE fails to reject a proposed charter award before the 90th day after the date on which it receives the proposal, takes effect. Prohibits SBOE from deliberating or voting on any charter award not proposed by the commissioner under this section.

(b-1) Prohibits the authority, in granting charters to open-enrollment charter schools, from granting a total of more than:

- (1) 215 charters through the fiscal year ending August 31, 2014;
- (2) 225 charters for the fiscal year beginning September 1, 2014;
- (3) 240 charters for the fiscal year beginning September 1, 2015;
- (4) 255 charters for the fiscal year beginning September 1, 2016;
- (5) 275 charters for the fiscal year beginning September 1, 2017;
- (6) 295 charters for the fiscal year beginning September 1, 2018;
- (7) 315 charters for the fiscal year beginning September 1, 2019; or
- (8) 330 charters for the fiscal year beginning September 1, 2020.

Deletes existing text prohibiting SBOE from granting more than 215 charters for an open-enrollment charter school.

(b-2) Requires that 10 charters for open-enrollment charter schools, notwithstanding the limit provided for in Subsection (b-1)(8), for the fiscal year beginning September 1, 2021, and in each subsequent fiscal year, be added to the previous year's limit.

(b-3) Prohibits the authority from grant 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 or at the request of each charter holder affected by the consolidation.

(b-4) Authorizes a charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed by the state accountability system to establish one or more new open-enrollment charter school campuses under an existing charter held by the charter holder in accordance with the expedited approval process provided by this subchapter if:

- (1) the charter holder is currently evaluated under the standard accountability procedures and received a district rating in one of the two highest rating categories for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in one of the two highest rating categories and no campus with a rating in the lowest rating category in the most recent state accountability ratings;
- (2) the charter holder provides written notice to the commissioner of the establishment of any campus under this subsection in the time, manner, and form provided by rule of the commissioner; and
- (3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder disapproving a new campus under this section.

(b-5) Provides that a charter granted under this subsection is not considered for purposes of the limit on the number of charters that may be granted under this section. Authorizes that commissioner, notwithstanding Subsection (b), to grant a charter for an open-enrollment charter school to an applicant for the charter that is:

(1) an eligible entity under Subsection (a)(3) that proposes to operate the charter school program of a charter operator that operates one or more charter schools in another state and with which the eligible entity is affiliated and, as determined by the commissioner in accordance with commissioner rule, has performed at a level of performance comparable to one of the two highest accountability ratings in Texas; or

(2) an entity that has operated one or more charter schools established under this subchapter or Subchapter C or E (College or University or Junior College Charter School) and, as determined by the commissioner in accordance with commissioner rule, has performed at one of the two highest accountability ratings.

(b-6) Provides that the initial term of a charter granted under this section is five years, and the term of a charter renewed under Section 12.1141 is 10 years, subject to earlier revocation under this chapter.

(b-7) Authorizes a charter holder granted an open-enrollment charter under Subsection (b-5) to vest management of corporate affairs in a member entity provided that the member entity is authorized to change the members of the governing body of the charter holder prior to the expiration of a member's term only with the express written approval of the commissioner.

(b-8) Provides that a charter granted under this subsection is not considered for purposes of the limit on the number of charters that are authorized to be granted under this section. Authorizes the commissioner, notwithstanding Subsection (b), to grant a charter for an open-enrollment charter school to an applicant for the charter that is:

(1) an eligible entity under Subsection (a)(3) that proposes to operate the charter school that has a successful history of providing individualized education services to students, including students with disabilities, and that proposes to operate a charter school that enrolls a student population in which at least 25 percent of students are students with disabilities; or

(2) an eligible entity under Subsection (a)(3) that has a successful history of accelerating the academic achievement and college and career readiness of students who have previously been reported to the state as dropouts or are students at risk of dropping out of school as defined in Section 29.081 (Compensatory, Intensive, and Accelerated Instruction) and that proposes to operate a charter school that enrolls a student population in which at least 80 percent of students, as determined by the commissioner in accordance with commissioner rule:

(A) have not been advanced from one grade level to the next for more than one school year;

(B) are 18 to 26 years of age with no high school diploma;

(C) did not perform satisfactorily on an assessment instrument administered to the student under Subchapter B, Chapter 39, and have not in the previous or current school year subsequently performed satisfactorily on that instrument or another appropriate instrument;

(D) have previously been reported through PEIMS to have dropped out of school; or

(E) whose initial enrollment in a school in the United States in grades 7 through 12 was as an unschooled asylee or refugee as defined by Section 39.027(a-1) (relating to authorizing a student of limited English proficiency to be administered an alternative assessment instrument or granted an exemption from or postponement of the administration of an assessment instrument).

SECTION 9. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1011, as follows:

Sec. 12.1011. CHARTER AUTHORIZER ACCOUNTABILITY. (a) Requires the commissioner to annually report the performance of open-enrollment charter schools by authorizer under Subchapters J (Parent and Educator Reports) and K (Reports by Texas Education Agency), Chapter 39, compared to campus charters and matched traditional campuses based on student achievement indicators adopted under Section 39.053 (Performance Indicators: Student Achievement).

(b) Requires that the format of the report enable the public to distinguish and compare the performance of each type of public school by classifying the schools as follows:

- (1) open-enrollment charters granted by SBOE;
- (2) open-enrollment charters granted by the commissioner;
- (3) charters granted by school districts; and
- (4) matched traditional campuses.

(c) Requires that the report publish the performance of each public school in each class described by Subsection (b) as measured by the student achievement indicators adopted under Section 39.053.

(d) Requires that the report also:

- (1) aggregate and compare the performance of open-enrollment charter schools granted by SBOE, open-enrollment charter schools granted by the commissioner, charters granted by school districts, and matched traditional campuses; and
- (2) rate the aggregate performance of elementary, middle, and high schools within each class described by Subsection (b) as indicated by the composite rating that would be assigned to the class of elementary, middle, and high schools if the students attending all schools in that class were cumulatively enrolled in one elementary, middle, or high school.

SECTION 10. 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 11. 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, among other requirements.

SECTION 12. Amends Section 12.1051, Education Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that any requirement in Chapter 551 (Open Meetings) or 552 (Public Information), Government Code, or another law that concerns open meetings or the availability of information, that applies to a school district, the board of trustees of a school district, or public school students, with respect to the operation of an open-enrollment charter school, except as provided by Subsection (c), applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or students attending an open-enrollment charter school.

(c) Requires the commissioner, notwithstanding any provision under Subchapter F (Meetings Using Telephone, Videoconference, or Internet), Chapter 551, Government

Code, to provide by rule for meetings by telephone conference call or video conference call where a majority of the quorum of the charter holder or charter school governing body is not physically present at one location of the meeting. Authorizes the rules to apply only to meetings of the governing body of a charter holder or charter school with its central administrative offices in another state.

SECTION 13. 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. Makes conforming changes.

(e) Makes conforming changes.

SECTION 14. 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 15. 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 to be covered under TRS to the same extent a qualified employee of a school district is covered.

SECTION 16. 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) Authorizes the authority, rather than SBOE, as part of the application procedure, to require a petition supporting a charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(d) Requires the commissioner, rather than authorizing SBOE, to approve or deny an application based on:

(1) documented evidence collected through the application review process;

(2) merit; and

(3) other criteria as adopted by the authority, rather than the board of trustees, which is required to include, among other requirements, criteria relating to the capability of the applicant to carry out the responsibilities provided by the charter and the likelihood that the applicant will operate a school of high quality.

Makes nonsubstantive changes.

SECTION 17. 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-4), 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 18. 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 the academic, operational, and financial performance expectations by which a school operating under the charter will be evaluated, which must include applicable elements of the performance frameworks adopted under Section 12.1181;
- (4) specify any basis, in addition to a basis specified by this subchapter or Subchapter E, Chapter 39, on which the charter may be revoked or on which renewal of the charter may be denied, rather than on which the charter may be placed on probation or revoked or on which renewal of the charter may be denied, and the standards for evaluation of a school operating under the charter for purposes of charter renewal, denial of renewal, revocation, or other intervention in accordance with Section 12.1141 or 12.115 or Subchapter E, Chapter 39, as applicable;
- (5)-(10) Makes nonsubstantive changes to these subdivisions;
- (11) 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 rule, rather than by SBOE rule, in PEIMS; and
- (12)-(14) Makes nonsubstantive changes to these subdivisions.
- (15) provide information, as determined by the authority, relating to any management company that will provide management services to a school operating under the charter; and
- (16) specify that the governing body of an open-enrollment charter school accepts and is prohibited from delegating ultimate responsibility for the school, including the school's academic performance and financial and operational viability, and is responsible for overseeing any management company providing management services for the school and for holding the management company accountable for the school's performance.

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 19. 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 20. Amends Section 12.113(a), Education Code, to require each charter the authority, rather than SBOE, grants for an open-enrollment charter school to satisfy this subchapter, and include the information that is required under Section 12.111 consistent with the information provided in the application and any modification the authority, rather than SBOE, requires.

SECTION 21. Amends Section 12.114(a), Education Code, to make a conforming change.

SECTION 22. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1141, as follows:

Sec. 12.1141. RENEWAL OF CHARTER; DENIAL OF RENEWAL. (a) Requires the commissioner to develop and by rule adopt a procedure for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school at the end of the current term of the charter. Requires that the procedure include consideration of the performance under Chapter 39 of the charter holder and each campus operating under the charter and is required to include three distinct processes for renewal or denial of renewal, which are required to be expedited renewal, discretionary renewal, and charter expiration. Requires the charter holder, to renew a charter at the end of the current term, to submit a petition for renewal to the commissioner in the time and manner established by commissioner rule. Requires the commissioner to set a deadline by which an application for renewal is required to be filed.

(b) Provides that a charter for an open-enrollment charter school automatically renews, at the end of the current term of the charter, if a charter holder submits to the commissioner a petition for expedited renewal of the charter, unless, not later than the 30th day after the date the charter holder submits the petition, the commissioner provides written notice to the charter holder that expedited renewal of the charter is denied. Prohibits the commissioner from denying expedited renewal of a charter if:

(1) the charter holder has been assigned the highest or second highest performance rating under Subchapter C, Chapter 39, for the three 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 for the three preceding school years; and

(3) no campus operating under the charter has been assigned the lowest performance rating under Subchapter C, Chapter 39, for the three preceding school years or such a campus has been closed.

(b-1) Requires a charter holder, notwithstanding Subsection (b)(1), if only acceptable and unacceptable performance ratings are authorized to be assigned under Subchapter C, Chapter 39, to be assigned the highest performance rating under Subchapter C, Chapter 39, for the three preceding school years for purposes of Subsection (b)(1).

(c)(1) Requires the commissioner, at the end of the current term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter and the charter does not meet the criteria for expedited renewal under Subsection (b) or for denial of renewal under Subsection (d), to use the discretionary renewal process.

(2) Requires that the commissioner's decision under the discretionary renewal process to renew or deny renewal of the charter take into consideration the results of annual evaluations under the performance frameworks established under Section 12.1181.

(3) Requires that the renewal of an open-enrollment charter school that is registered under TEA's alternative education accountability procedures for evaluation under Chapter 39 be considered under the discretionary renewal process regardless of the performance ratings under Subchapter C, Chapter 39, of the open-enrollment charter school or of any campus operating under the charter.

(4) Requires that the renewal of a charter, notwithstanding Subdivision (3), if the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance that is lower than satisfactory for any three of the five preceding school years, be denied under Subsection (d).

(5) Requires the commissioner, notwithstanding other law, in considering the renewal of the charter of an open-enrollment charter school that is registered under TEA's alternative education accountability procedures for evaluation under Chapter 39, to use academic criteria established by commissioner rule that are appropriate to measure the specific goals of the school, such as providing dropout recovery or providing education within a residential treatment facility. Requires that the criteria established by the commissioner recognize growth in student achievement as well as attainment.

(d) Prohibits the commissioner, at the end of the current term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter, from renewing the charter but requires the commissioner to find the open-enrollment charter to have expired by its own terms if:

(1) the charter holder has been assigned the lowest performance rating under Subchapter C, Chapter 39, for any three of the five preceding school years;

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

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for any three of the five preceding school years; or

(4) any campus operating under the charter has been assigned the lowest performance rating under Subchapter C, Chapter 39, for the three preceding school years and such a campus has not been closed.

(d-1) Provides that a finding by the commissioner that an open-enrollment charter has expired by its own terms under Subsection (d), notwithstanding any other law, is final and is prohibited from being appealed.

(e) Requires the commissioner, except as provided by Subsection (b), not later than the 90th day after the date on which a charter holder submits a petition for renewal of a charter for an open-enrollment charter school at the end of the current term of the charter, to provide written notice to the charter holder, in accordance with commissioner rule, of the basis on which the charter qualified for expedited renewal, discretionary renewal, or charter expiration, and of the commissioner's final decision. Provides that Chapter 2001 (Administrative Procedure), Government Code, does not apply to a proceeding under this subsection. Provides that a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school, except as otherwise provided by Subsection (d-1), is subject to review by the State Office of Administrative Hearings (SOAH). Requires SOAH to uphold a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school unless SOAH finds the decision is arbitrary and capricious or clearly erroneous. Provides that a decision of SOAH under this subsection is final and is prohibited from being appealed.

(f) Provides that the charter term, if a charter holder submits a petition for renewal of a charter for an open-enrollment charter school, notwithstanding the expiration date of the charter, is extended until the authority has provided notice to the charter holder of the renewal or denial of renewal of the charter.

(g) Provides that the term of a charter renewed under this section is 10 years for each renewal.

(h) Requires the authority to adopt rules to modify criteria for renewal or denial of renewal of a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

(i) Requires the authority, if a charter holder of a charter granted by SBOE submits to the authority a petition for renewal of the charter in the time and manner established by authority rule, to consider renewal of the charter in accordance with Subsection (b). Provides that this subsection expires September 1, 2025.

SECTION 23. Amends Section 12.115, Education Code, as follows:

Sec. 12.115. New heading: BASIS FOR CHARTER REVOCATION OR MODIFICATION OF GOVERNANCE. (a) Requires the authority, except as provided by Subsection (c), to 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, including that the charter holder failed to satisfy the performance framework standards adopted under Section 12.1181, or is imminently insolvent as determined by the authority in accordance with authority rule.

Deletes existing text 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, rather than the commissioner, 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.

(c) Requires the authority, except as provided by Subsection (d), to revoke the charter of an open-enrollment charter school if:

(1) the charter holder has been assigned an unacceptable performance rating under Subchapter C, Chapter 39, for the three preceding school years;

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

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for the three preceding school years.

(d) Provides that Subsections (c)(1) and (3) do not apply to a charter holder registered under TEA's alternative education accountability procedures for evaluation under Chapter 39.

(e) Provides that this section does not limit the authority of the attorney general to take any action authorized by law.

(f) Provides that a charter holder rated as academically unacceptable under Subchapter D, Chapter 39, as that subchapter existed on January 1, 2009, for the 2010-2011 school year is considered to have been assigned an unacceptable performance rating for that school year under Subsection (c)(1). Provides that this subsection expires September 1, 2015.

(g) Authorizes the commissioner, on revoking a charter under this section, to, in the commissioner's sole discretion, assign operation of one or more campuses formerly operated by the revoked charter holder to a different charter holder with that different charter holder's consent.

SECTION 24. Section 12.116, Education Code, is amended to read as follows:

Sec. 12.116. New heading: PROCEDURE FOR REVOCATION. (a) Requires the commissioner to adopt an informal procedure to be used for revoking the charter of an open-enrollment charter school, rather than a procedure to be used for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school.

(b) Provides that Chapter 2001, Government Code, does not apply to a proceeding that is related to a revocation under this subchapter, rather than to a hearing that is related to a modification, placement on probation, revocation, or denial of renewal under this subchapter.

(c) Authorizes the commissioner, if the commissioner revokes an open-enrollment charter, to manage the school directly until alternative arrangements can be made for students at the school under Section 12.115.

(d) Provides that a decision by the commissioner to revoke a charter is subject to review by SOAH. Requires SOAH to uphold a decision by the commissioner to revoke a charter unless SOAH finds the decision is arbitrary and capricious or clearly erroneous. Provides that a decision of SOAH under this subsection is final and is prohibited from being appealed.

Deletes existing Subsection (b) requiring that the procedure adopted under Subsection (a) provide an opportunity for a hearing to the charter holder and to parents and guardians of students in the school, and requiring that a hearing under this subsection be held at the facility at which the program is operated.

SECTION 25. 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, rather than the commissioner, 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 26. 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.

Makes conforming changes.

(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 27. Amends the heading to Section 12.1163, Education Code, to read as follows:

Sec. 12.1163. AUDIT BY AUTHORITY.

SECTION 28. 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, unless the authority, rather than the commissioner, has specific cause to conduct an additional audit, from conducting more than one on-site audit during any fiscal year, rather than more than one on-site audit under Section 12.1163, including any financial and administrative records. 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 29. 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 30. Amends Sections 12.118(a) and (c), Education Code, as follows:

(a) Requires the authority, rather than the commissioner, 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.

(c) Requires that the evaluation of open-enrollment charter schools also include an evaluation of certain factors, including other issues, as determined by the authority, rather than the commissioner.

SECTION 31. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1181, as follows:

Sec. 12.1181. PERFORMANCE FRAMEWORKS; ANNUAL EVALUATIONS. (a) Requires the authority to develop and by rule adopt performance frameworks that establish standards by which to measure the performance of an open-enrollment charter school. Requires the authority to develop and by rule adopt separate, specific performance frameworks by which to measure the performance of an open-enrollment charter school that is registered under the TEA's alternative education accountability procedures for evaluation under Chapter 39. Requires that the performance frameworks be based on national best practices that charter school authorizers use in developing and applying standards for charter school performance. Requires the authority, in developing

the performance frameworks, to solicit advice from charter holders, the members of the governing bodies of open-enrollment charter schools, and other interested persons.

(b) Authorizes the performance frameworks to include a variety of standards. Requires the authority, in evaluating an open-enrollment charter school, to measure school performance against an established set of quality standards developed and adopted by the authority.

(c) Requires the authority, each year, to evaluate the performance of each open-enrollment charter school based on the applicable performance frameworks adopted under Subsection (a).

SECTION 32. 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)(7), rather than by this section and Section 12.111(a)(8), to a member of the public. Makes conforming changes.

SECTION 33. 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 34. Amends Section 12.122(a), Education Code, as follows:

(a) Authorizes the attorney general, notwithstanding the applicable provisions of the Business Organizations Code or other 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 35. 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 36. 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 37. 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 38. Amends Sections 12.128(a), (c), and (d), Education Code, as follows:

(a) Provides that property purchased or leased with funds received by a charter holder under Section 12.106 after September 1, 2001:

(1) Makes no change to this subdivision;

(2) is property of this state held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and

(3) Makes no change to this subdivision.

(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 39. 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 40. 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 41. Amends Section 12.156(b), Education Code, to provide that a charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101(b-1), and to make a conforming change.

SECTION 42. Amends Section 39.152, Education Code, as follows:

Sec. 39.152. REVIEW BY STATE OFFICE OF ADMINISTRATIVE HEARINGS: SANCTIONS. (a) Requires a school district or open-enrollment charter school that intends to challenge a decision by the commissioner under this chapter to close the district or a district campus or the charter school or to pursue alternative management of a district campus or the charter school to appeal the decision under this section, rather than under the procedures provided for a contested case under Chapter 2001, Government Code.

(b) Requires the commissioner to adopt procedural rules for a challenge under this section.

(c) Provides that, notwithstanding other law:

(1) SOAH is required to conduct, rather than provide, an expedited review of a challenge under this section;

(2)-(3) Makes nonsubstantive changes; and

(4) notwithstanding Section 13.005 (Effective Date of Transfer), the decision of the administrative law judge is authorized to set an effective date for an action under this section.

SECTION 43. Amends Section 221.0071(a), Human Resources Code, to authorize the Charter School Authorizing Authority, rather than SBOE, 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 44. Section 221.056(d), Human Resources Code, to require the Charter School Authorizing Authority, rather than SBOE, 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 45. 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 46. 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; and

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.

SECTION 47. 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 Charter School Authorizing Authority does not affect the terms of a charter, including any legal rights, duties, and obligations based on a charter, granted under Chapter 12, Education Code, before May 1, 2014.

SECTION 48. (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 Charter School Authorizing 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 Charter School Authorizing Authority;

(3) a reference in law or administrative rule to SBOE that specifically relates only to charter schools means the Charter School Authorizing 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 Charter School Authorizing 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 Charter School Authorizing Authority, and the Charter School Authorizing 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 Charter School Authorizing Authority to which SBOE or the commissioner, as applicable, is a party;

(6) an employee of SBOE or TEA assigned only or primarily to duties relating to charter schools becomes an employee of the Charter School Authorizing Authority; 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 Charter School Authorizing 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, and is responsible for administering PEIMS under Chapter 12, Education Code, and as otherwise provided by the Education Code.

(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 49. Authorizes SBOE, before May 1, 2014, to agree with the Charter School Authorizing Authority to transfer any property of SBOE to the Charter School Authorizing Authority to implement the transfer required by Section 54 [sic] of this Act.

SECTION 50. Effective date: September 1, 2013.