

## **BILL ANALYSIS**

C.S.H.B. 3439  
By: Koop  
Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties see a benefit in partnerships between public school districts and open-enrollment charter schools. C.S.H.B. 3439 seeks to incentivize and increase the occurrence of these partnerships by providing a funding entitlement for certain district campuses operated under a partnership between a district and a charter school.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTIONS 1 and 2 of this bill.

### **ANALYSIS**

C.S.H.B. 3439 amends the Education Code to establish that, if the board of trustees of a public school district contracts with the governing body of an open-enrollment charter school for the district to partner with the charter school to operate a district campus, the campus qualifies for an exemption from certain intervention by the commissioner of education as provided by the bill and for the funding set out by the bill. The bill authorizes a charter school to contract with a district to operate a district campus only if the charter of the charter school has not been previously revoked and the charter school has received for two of the three school years preceding the school year of the proposed operation of the district campus an overall performance rating of acceptable or higher and a financial accountability rating indicating financial performance of satisfactory or higher.

C.S.H.B. 3439 requires a district to consult with campus personnel regarding the provisions to be included in the contract between the district and the charter school before entering into the contract and requires a district campus to be granted a campus or campus program charter to operate as a district campus. The bill requires the commissioner to continue to evaluate and assign overall and domain performance ratings to a district campus subject to an applicable contract, but prohibits the commissioner from imposing a sanction or taking certain action against a campus for failure to satisfy academic performance standards during that first two school years the charter school operates the campus. This prohibition applies only to a campus subject to a contract to operate as a district campus that received an unacceptable overall performance rating for the school year before the operation of the district campus under the contract began. The bill establishes that the overall performance rating received by the campus during those first two school years is not included in calculating consecutive school years and is not considered a break in consecutive school years for purposes relating to the required submission of a campus turnaround plan.

C.S.H.B. 3439 authorizes a district campus subject to the prohibition against such commissioner sanction or action that receives an unacceptable overall performance rating for any school year after the first two school years the district and the charter school began operation of the campus to receive an exemption from a sanction or other action only if the campus receives approval for the exemption from the commissioner. The bill requires a contract for the operation of a district campus to include a provision addressing student eligibility for enrollment. The bill requires the contract of a campus subject to the prohibition against commissioner sanction or action to provide that any student residing in the attendance zone of the campus as the attendance zone existed before operation of the campus under the contract be admitted for enrollment at the campus and requires the contract to establish a certain manner of enrollment preference for students who do not reside in the attendance zone.

C.S.H.B. 3439 authorizes the commissioner to adopt rules as necessary to administer the bill's provisions relating to a contract regarding operation of a district campus, which expressly do not prohibit a contract between a district and another entity for the provision of services for the campus.

C.S.H.B. 3439 entitles a district that has entered into a contract with a charter school to operate a district campus to receive for each student in average daily attendance at the campus an amount equivalent to the difference, if the difference results in increased funding, between the amount to which the district would be entitled under the foundation school program and the amount of state funding to which the open-enrollment charter school would be entitled. The bill requires the commissioner to adopt rules as necessary to administer the entitlement. The bill applies beginning with the 2017-2018 school year.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3439 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

##### INTRODUCED

SECTION 1. Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.174 to read as follows:

Sec. 11.174. CONTRACT WITH OPEN-ENROLLMENT CHARTER SCHOOL REGARDING OPERATION OF DISTRICT CAMPUS. (a) The board of trustees of a school district may contract with the governing body of an open-enrollment charter school for the district to partner with the charter school to operate a district campus and share teachers, facilities, or other education resources on that campus.

##### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.174 to read as follows:

Sec. 11.174. CONTRACT WITH OPEN-ENROLLMENT CHARTER SCHOOL REGARDING OPERATION OF DISTRICT CAMPUS. (a) If the board of trustees of a school district contracts with the governing body of an open-enrollment charter school under Section 11.157 for the district to partner with the charter school to operate a district campus as provided by this section, the campus qualifies for:  
(1) an exemption from intervention as provided by Subsection (f); and  
(2) funding as provided under Section 42.2511.

(b) The board of trustees of a school district may not enter into a contract as provided by Subsection (a) if:

(1) the charter of the open-enrollment charter school has been previously revoked; or

(2) the charter school has received an unacceptable performance rating under Subchapter C, Chapter 39, for each of the three school years preceding the school year of the proposed operation of the district campus as described by Subsection (a).

(c) Except as provided by Subsection (d), the commissioner shall continue to evaluate and assign performance ratings under Section 39.054 to a school district, district campus, and open-enrollment charter school subject to a contract described by Subsection (a).

(d) This subsection applies only to a campus subject to a contract described by Subsection (a) that received a D or F for a performance rating under Subchapter C, Chapter 39, for the school year before the school district and the open-enrollment charter school began operation of the district campus. Notwithstanding any other law, the commissioner shall assign a campus subject to this subsection a performance rating of "undesigned" under Section 39.054 for the first school year of the operation of the campus by the district and the charter school. The commissioner may not impose a sanction or take action against the campus under Subchapter E, Chapter 39, for failure to satisfy academic performance standards during that first school year.

(b) An open-enrollment charter school may contract with a school district under this section only if:

(1) the charter of the open-enrollment charter school has not been previously revoked; and

(2) for two of the three school years preceding the school year of the proposed operation of the district campus as described by Subsection (a), the charter school has received:

(A) an overall performance rating of acceptable or higher under Subchapter C, Chapter 39; and

(B) a financial accountability rating under Subchapter D, Chapter 39, indicating financial performance of satisfactory or higher.

(c) Before entering into a contract as provided by this section, a school district must consult with campus personnel regarding the provisions to be included in the contract between the school district and the open-enrollment charter school.

(d) To operate a district campus as provided by this section, the district campus must be granted a charter under Subchapter C, Chapter 12.

(e) The commissioner shall continue to evaluate and assign overall and domain performance ratings under Section 39.054 to a district campus subject to a contract described by Subsection (a).

(f) This subsection applies only to a district campus subject to a contract described by Subsection (a) that received an overall performance rating of unacceptable under Subchapter C, Chapter 39, for the school year before operation of the district campus under the contract began. The commissioner may not impose a sanction or take action against the campus under Section 39.107(a) or (e) for failure to satisfy academic performance standards during the first two school years the open-enrollment charter school operates the district campus. The overall performance rating received by the campus during those first two school years is not included in calculating consecutive school years and is not considered a break in consecutive school years under Section 39.107(a) or (e).

(g) A campus subject to Subsection (f) that

receives an overall performance rating of unacceptable under Subchapter C, Chapter 39, for any school year after the first two school years the school district and the open-enrollment charter school began operation of the district campus may receive an exemption from a sanction or other action only if the campus receives approval for the exemption from the commissioner.

(h) Subject to Subsection (i), a contract entered into by the board of trustees of a school district and the governing body of an open-enrollment charter school for the operation of a district campus as provided by Subsection (a) must include a provision addressing student eligibility for enrollment.

(i) The contract of a campus subject to Subsection (f) must provide that any student residing in the attendance zone of the district campus as the attendance zone existed before operation of the district campus under the contract shall be admitted for enrollment at the campus. The contract must establish enrollment preference for students who do not reside in the attendance zone as follows:

(1) other students residing in the school district in which the campus is located; and

(2) students who reside outside the school district.

(j) The commissioner may adopt rules as necessary to administer this section, including requiring a school district to notify the commissioner of any contract entered into under this section by the district and open-enrollment charter school.

(k) This section does not prohibit a contract between a school district and another entity for the provision of services for the campus.

(e) The commissioner may adopt rules as necessary to administer this section.

SECTION 2. Subchapter A, Chapter 42, Education Code, is amended by adding Section 42.010 to read as follows:

Sec. 42.010. SCHOOL DISTRICT ENTITLEMENT FOR CERTAIN STUDENTS. (a) This section applies only to a school district and an open-enrollment charter school that enter into a contract to operate a district campus and share teachers, facilities, or other education resources as provided by Section 11.174.

(b) Notwithstanding any other provision of this chapter, a school district and open-enrollment charter school to which this section applies collectively are entitled to

SECTION 2. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2511 to read as follows:

Sec. 42.2511. SCHOOL DISTRICT ENTITLEMENT FOR CERTAIN STUDENTS. (a) This section applies only to a school district that has entered into a contract with an open-enrollment charter school to operate a district campus as provided by Section 11.174.

(b) Notwithstanding any other provision of this chapter or Chapter 41, a school district subject to this section is entitled to receive for each student in average daily attendance

receive the greater of the following amount for each student in weighted average daily attendance at the campus:

(1) the amount to which the district would be entitled under this chapter; or

(2) the amount described by Section 12.106.

(c) The amount provided under Subsection (b) must be allocated in accordance with the contract described by Subsection (a).

(d) The commissioner shall adopt rules as necessary to administer this section.

SECTION 3. This Act applies beginning with the 2017-2018 school year.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

at the campus described by Subsection (a) an amount equivalent to the difference, if the difference results in increased funding, between:

(1) the amount described by Section 12.106; and

(2) the amount to which the district would be entitled under this chapter.

(c) The commissioner shall adopt rules as necessary to administer this section.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.