

BILL ANALYSIS

Senate Research Center
82R1751 CAS-D

S.B. 127
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Education
3/18/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The intent of S.B. 127 is to address the establishment and operation of new charter schools in Texas. The bill authorizes the addition of 10 new open-enrollment charter schools each year (Texas currently has a cap of 215 charter school contracts.); authorizes automatic expansion of new campuses under a charter with certain conditions of academic and financial accountability (Charter holders are currently able to expand according to commissioner rule, not statute.); enables the State Board of Education to grant new charter schools primarily serving students with disabilities which do not apply toward the limit on the number of new charter schools; requires notice to school districts and legislators in affected districts of any new charter campuses developed in that area; requires the revocation of any charter if the charter school fails academic or fiscal management accountability standards; and provides for the automatic renewal of charter schools after 10 years unless the commissioner of education has started action for revocation.

As proposed, S.B. 127 amends current law relating to the establishment, operation, and funding of open-enrollment charter schools.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

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

(b) Authorizes the State Board of Education (SBOE), 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 commissioner of education (commissioner) under this subchapter. Prohibits SBOE from granting more than 10 new charters for an open-enrollment charter school each state fiscal year, rather than a total of more than 215 charters for an open-enrollment charter school.

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

(1) 90 percent or more of the open-enrollment charter school campuses operating under the charter have been assigned an acceptable performance rating as provided by Subchapter C (Accreditation), Chapter 39 (Public School System Accountability), for the two preceding years;

(2) either no campus operating under the charter has been assigned an unacceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the three preceding school years or such a campus has been closed;

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

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

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

(b-2) Provides that this subsection expires January 1, 2015. Provides that for purposes of Subsection (b-1):

(1) an open-enrollment charter school campus rated as academically acceptable or higher under Subchapter D (Financial Accountability), Chapter 39, as that subchapter existed January 1, 2009, for the 2009-2010 or 2010-2011 school year is considered to have been assigned an acceptable performance rating for the applicable school year; and

(2) an open-enrollment charter school campus 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 the applicable school year.

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

Sec. 12.1011. AUTHORIZATION FOR GRANT OF CHARTERS FOR SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) Authorizes SBOE to grant under Section 12.101 a charter on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students with disabilities, including students with autism. Provides that a charter granted under this section is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101(b).

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

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

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

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

(b) Provides that an open-enrollment charter school is subject to a provision of this title establishing a criminal offense and 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 and certain statutory criteria, including 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, except as provided by Subsection (e).

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

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

Sec. 12.1101. New heading: NOTIFICATION OF CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. Requires the commissioner by rule to adopt a procedure for providing notice to the following persons on receipt by SBOE of an application for a charter for an open-enrollment charter school under Section 12.110 (Application) or on receipt by SBOE and the commissioner of notice of the establishment of a campus as authorized under Section 12.101(b-1):

- (1) the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students as determined by the commissioner; and
- (2) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as determined by the commissioner.

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

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

- (1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002 (Required Curriculum);
- (2) specify the period for which the charter, or consistent with Section 12.116 (b-1), any charter renewal is valid;
- (3) provide that the continuation or renewal of the charter is contingent on the status of the charter as provided by Section 12.116(b-1), rather than provide that the continuation of the renewal of the chart is 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;
- (4) Deletes existing text of Subdivision (4) establishing the level of student performance that is considered acceptable for purposes of Subdivision (3). Creates a new Subdivision (4) from existing text of Subdivision (5) requiring each charter granted under this subchapter to specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked, rather than specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked or on which renewal of the charter may be denied; and
- (5)-(14) Makes nonsubstantive changes.

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

Sec. 12.115. New heading: BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION. (a) Authorizes the commissioner to modify, place on probation, or revoke the charter of an open-enrollment charter school if the commissioner makes certain determinations regarding the charter holder. Deletes existing text authorizing the commissioner to deny renewal of the charter of an open-enrollment charter school if the commissioner makes certain determinations.

(b) Requires that the action the commissioner takes under Subsection (a) be based, among other considerations, on the accreditation status of the school under Subchapter C, Chapter 39. Makes nonsubstantive changes.

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

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

(b) Requires the commissioner to revoke the charter of an open-enrollment charter school without a hearing if each campus operated under the school's charter has been ordered closed under Section 39.107 (Reconstitution, Repurposing, Alternative Management, and Closure). Deletes existing text 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. Deletes existing text requiring that a hearing under this subsection be held at the facility at which the program is operated.

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

SECTION 8. Amends Section 12.118(a), Education Code, to require the commissioner to designate an impartial organization with experience in evaluating school choice programs to conduct, under the supervision of the commissioner, an annual evaluation of open-enrollment charter schools.

SECTION 9. Amends Section 12.119(c), Education Code, to require SBOE, on request, to provide the information required by this section and Section 12.111(a)(7), rather than 12.111(8), to a member of the public. Authorizes SBOE to charge a reasonable fee to cover SBOE's cost in providing the information.

SECTION 10. Repealer: Section 12.113(b) (relating to prohibiting an entitlement of a renewal of a charter), Education Code.

SECTION 11. Makes this Act applicable beginning with the 2011-2012 school year.

SECTION 12. Effective date: upon passage or September 1, 2011.