

BILL ANALYSIS

C.S.H.B. 3347
By: Aycock
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When charter schools cease operations, either voluntarily or because of a revocation of a school's charter, interested parties contend that the state needs a mechanism to dispose of a school's property. The goal of C.S.H.B. 3347 is to establish such a mechanism.

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 SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 3347 amends the Education Code to require the State Office of Administrative Hearings (SOAH) to conduct a hearing to review a decision issued by the commissioner of education to revoke the charter of an open-enrollment charter school and to issue a final decision not later than the 90th day after the date that the notice of hearing is filed with SOAH. The bill authorizes the commissioner, on revoking a charter and deciding to manage a school until alternative arrangements are made for the school's students, to allow the existing governing body of the school to manage the school, under the commissioner's direction, until the conclusion of the academic school year, to appoint a board of managers under the bill's provisions, or to appoint an individual to serve as the agent of the commissioner. The bill requires the commissioner to transfer to the revoked charter school liquidation account established under the bill's provisions any state funds received by the charter holder that remain after the operations of the school are closed.

C.S.H.B. 3347 authorizes the commissioner, if the commissioner issues a decision to revoke the charter of an open-enrollment charter school, to appoint a board of managers and a charter superintendent to manage the school until alternative arrangements are made for the school's students or appoint that board of managers or an agent of the commissioner to close the operations of the school and manage the disposition of the state's personal and real property in the possession of the charter holder. The bill specifies that the commissioner, if the commissioner makes that revocation decision, is authorized to take any combination of the actions authorized by law. The bill provides for the operation of a school by a board of managers until the commissioner dissolves the board and for compensation of a member of a board of managers or a charter superintendent under terms set by the commissioner. The bill requires the commissioner to use funds received by or due to the former charter holder for such compensation and authorizes the commissioner, under certain conditions, to use funds from the revoked charter school liquidation account established by the bill, available Texas Education Agency (TEA)

funds, or to provide for the transfer of funds from the Foundation School Program to TEA's administrative account for the compensation.

C.S.H.B. 3347 requires a former charter holder, not later than the 90th day after the effective date of the revocation or surrender of a charter, to remit all public funds to the state and to transfer in a specified manner public property to certain entities, as determined by the governing body of the former charter holder. The bill sets out requirements for an entity to which such property is transferred and for the governing body regarding the transfer or disposal of property being used for student instruction. The bill authorizes the commissioner of education, in supervising the disposition of property purchased or leased with state funds received by a charter holder that ceases to operate, to file a suit for receivership under the bill's provisions or to seek a court of competent jurisdiction to declare the property to be state property and order the property to be titled in the name of the state. The bill requires the General Land Office (GLO), if a former charter holder returns property to the state under the bill's provisions or if the commissioner obtains such a court declaration, to sell any real property through any method available to the GLO and to transfer any proceeds of the sale of the real property to the revoked charter school liquidation account established by the bill and requires the Texas Facilities Commission, given the same circumstance, to transfer any proceeds from the sale of property disposed of under Government Code provisions relating to surplus and salvage property into that account. The bill establishes that proceeds of such a sale of property are not subject to the requirements of the General Appropriations Act or statutory requirements or rules related to the general revenue fund.

C.S.H.B. 3347 authorizes the commissioner, if the commissioner revokes or accepts the surrender of the charter of a charter school, to determine that a receivership is warranted to conserve or dispose of public property over which the commissioner assumes control or possession. The bill sets out procedures for an action brought by the attorney general to appoint a receiver in a Travis County district court and provisions relating to a receivership order entered by the court. The bill sets out the powers and duties of the receiver, exempts a contract entered into by the commissioner as a receiver from any law governing the procurement of goods and services by the state and exempts an appointed receiver from the applicability of certain fee requirements, and provides for the appointment of or contracting with one or more special deputy receivers and the employment of or contracting with other personnel. The bill authorizes a court to require a special deputy receiver to execute a bond in an amount to be set by the court to ensure the proper performance of the special deputy receiver's duties. The bill sets out provisions relating to the receiver or an appointed or contracted special deputy receiver taking possession of a former charter school's property or returning to a former charter holder property or net proceeds from the sale of property under specified conditions and provides for a receiver's or special deputy receiver's immunity, indemnification, and legal representation by the attorney general. The bill sets out provisions relating to a person's right to receive notice of matters filed by the receiver and the process for the approval and payment of expenses by the receiver. The bill prohibits the state, commissioner, or receiver from being held liable for the debts or liabilities incurred by a former charter school. The bill establishes the priority by which the receiver is required to satisfy debts of a former charter school in accordance with a proposed disposition plan and sets out procedures for the filing of a proposed disposition plan and the giving of notice of a proposed disposition plan and procedures relating to a hearing and appeal on a proposed disposition plan.

C.S.H.B. 3347 sets out procedures for a liquidation order discharging the receiver and closing the receivership and requires the commissioner, after a liquidation order has been entered, to deposit any remaining funds from the former charter school in the revoked charter school liquidation account, which is established by the bill as an interest-bearing deposit account outside the treasury in the Texas Treasury Safekeeping Trust Company in which funds remitted by the commissioner under the bill's provisions to the comptroller of public accounts are deposited. The bill requires the account to be administered by the commissioner to pay specified expenses. The bill requires the commissioner to annually review the account and transfer any

funds exceeding \$2 million to the comptroller for deposit in the charter district bond guarantee reserve fund. The bill authorizes the commissioner to delay such a transfer if the excess does not exceed \$100,000. The bill establishes that its provisions relating to receivership and liquidation of a charter school are to be liberally construed to permit the commissioner, acting as a receiver, to promptly dispose of public property to preserve state assets and authorizes the commissioner to adopt rules necessary to implement the bill's provisions relating to receivership and liquidation of a charter school.

C.S.H.B. 3347 amends the Government Code to establish that, for purposes of statutory provisions relating to surplus and salvage property, a charter school is treated as a political subdivision that has the authority to acquire surplus or salvage property.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3347 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. Section 12.116, Education Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (e) and (f) to read as follows:

(a) The commissioner shall adopt an informal review procedure to be used for revoking the charter of an open-enrollment charter school or for reconstituting the governing body of the charter holder as authorized by Section 12.115.

(c) A decision by the commissioner to revoke a charter is subject to review by the State Office of Administrative Hearings. Notwithstanding Chapter 2001, Government Code:

(1) the State Office of Administrative Hearings shall conduct a revocation review hearing and issue a final decision not later than the 90th day after the date that the notice of hearing is filed with the State Office of Administrative Hearings;

(2) the administrative law judge shall uphold a decision by the commissioner to revoke a charter unless the judge finds the decision is arbitrary and capricious or clearly erroneous; and

(3) [~~2~~] a decision of the administrative law judge under this subsection is final and may not be appealed.

(d) If the commissioner issues a decision to revoke [~~revokes~~] the charter of an open-

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 12.116, Education Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (e) and (f) to read as follows:

(a) The commissioner shall adopt an informal review procedure to be used for revoking the charter of an open-enrollment charter school or for reconstituting the governing body of the charter holder as authorized by Section 12.115.

(c) A decision by the commissioner to revoke a charter is subject to review by the State Office of Administrative Hearings. Notwithstanding Chapter 2001, Government Code:

(1) the State Office of Administrative Hearings shall conduct a revocation review hearing and issue a final decision not later than the 90th day after the date that the notice of hearing is filed with the State Office of Administrative Hearings;

(2) the administrative law judge shall uphold a decision by the commissioner to revoke a charter unless the judge finds the decision is arbitrary and capricious or clearly erroneous; and

(3) [~~2~~] a decision of the administrative law judge under this subsection is final and may not be appealed.

(d) If the commissioner issues a decision to revoke [~~revokes~~] the charter of an open-

enrollment charter school, the commissioner may:

- (1) manage the school until alternative arrangements are made for the school's students; ~~and~~
- (2) assign operation of one or more campuses formerly operated by the charter holder who held the revoked charter to a different charter holder who consents to the assignment; or
- (3) appoint a board of managers under Section 12.1165 or an agent of the commissioner to close the operations of the school and manage the disposition of the state's personal and real property in the possession of the charter holder.

(e) If the commissioner decides to manage the school under Subsection (d)(1), the commissioner may:

- (1) allow the existing governing body of the school to manage the school, under the commissioner's direction, until the conclusion of the academic school year;
- (2) appoint a board of managers under Section 12.1165; or
- (3) appoint an individual to serve as the agent of the commissioner.

(f) The commissioner shall transfer to the charter school liquidation account established under Section 12.269 any funds received by the charter holder under Section 12.106 that remain after the operations of the school are closed under this section.

SECTION 2. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1165 and 12.1166 to read as follows:

Sec. 12.1165. BOARD OF MANAGERS FOR OPERATION OR DISSOLUTION.

(a) If the commissioner issues a decision to revoke the charter of an open-enrollment charter school, the commissioner may appoint a board of managers and a charter superintendent to:

- (1) manage the school under Section 12.116(d)(1); or
- (2) close the operations of the school under Section 12.116(d)(3).

(b) The commissioner may designate an individual member of the board of managers to submit to the agency any required data, reports, or other information necessary to

enrollment charter school, the commissioner may:

- (1) manage the school until alternative arrangements are made for the school's students; ~~and~~
- (2) assign operation of one or more campuses formerly operated by the charter holder who held the revoked charter to a different charter holder who consents to the assignment;

(3) appoint a board of managers under Section 12.1165 or an agent of the commissioner to close the operations of the school and manage the disposition of the state's personal and real property in the possession of the charter holder; or

(4) take any combination of the actions described by Subdivisions (1), (2), and (3).

(e) If the commissioner decides to manage the school under Subsection (d)(1), the commissioner may:

- (1) allow the existing governing body of the school to manage the school, under the commissioner's direction, until the conclusion of the academic school year;
- (2) appoint a board of managers under Section 12.1165; or
- (3) appoint an individual to serve as the agent of the commissioner.

(f) The commissioner shall transfer to the ~~revoked~~ charter school liquidation account established under Section 12.269 any funds received by the charter holder under Section 12.106 that remain after the operations of the school are closed under this section.

SECTION 2. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1165 and 12.1166 to read as follows:

Sec. 12.1165. APPOINTMENT OF BOARD OF MANAGERS.

(a) If the commissioner issues a decision to revoke the charter of an open-enrollment charter school, the commissioner may appoint a board of managers and a charter superintendent to:

- (1) manage the school under Section 12.116(d)(1); or
- (2) close the operations of the school under Section 12.116(d)(3).

(b) The commissioner may designate an individual member of the board of managers to submit to the agency any required data, reports, or other information necessary to

close the operations of the school.

(c) The board of managers may exercise all of the powers and duties assigned to a governing body of a charter holder by any statute or rule.

(d) If the governing body of a charter holder is managing a school under Section 12.116(e)(1), the governing body's powers are terminated on the effective date of the commissioner's appointment of the board of managers.

(e) Notwithstanding any other provision of this code, the board of managers may amend the school's budget. The board of managers may use cash on hand received by the former charter holder under Section 12.106 or any allocation of state funding due to the former charter holder under Section 12.106 to close the operations of the school. Actions taken under this subsection are subject to the approval of the commissioner.

(f) A person who serves on the board of managers or as a charter superintendent under this section acts on behalf of the commissioner and is entitled to:

(1) sovereign immunity; and

(2) representation by the attorney general for any act or omission taken while acting in the person's official capacity.

(g) The board of managers shall continue to operate until dissolved by the commissioner. Members of the board of managers and a charter superintendent serve at the discretion of the commissioner and may be replaced by the commissioner at any time.

(h) Except as otherwise provided, this chapter applies to a school governed by a board of managers in the same manner this chapter applies to any other charter school.

Sec. 12.1166. COMPENSATION OF BOARD OF MANAGERS AND CHARTER SUPERINTENDENT. (a) The commissioner may authorize compensation for a member of a board of managers or a charter superintendent appointed under Section 12.1165.

(b) The commissioner shall establish the terms of compensation provided under Subsection (a).

(c) The commissioner shall use funds of the former school due or received under Section 12.106 for compensation of a charter superintendent or a member of a board of managers.

close the operations of the school.

(c) The board of managers may exercise all of the powers and duties assigned to a governing body of a charter holder by any statute or rule.

(d) Except as provided by Section 12.1285(e), if the governing body of a charter holder is managing a school under Section 12.116(e)(1), the governing body's powers are terminated on the effective date of the commissioner's appointment of the board of managers.

(e) Notwithstanding any other provision of this code, the board of managers may amend the school's budget. The board of managers may use cash on hand received by the former charter holder under Section 12.106 or any allocation of state funding due to the revoked charter holder under Section 12.106 to close the operations of the school. Actions taken under this subsection are subject to the approval of the commissioner.

(f) A person who serves on the board of managers or as a charter superintendent under this section acts on behalf of the commissioner and is entitled to:

(1) sovereign immunity; and

(2) representation by the attorney general for any act or omission taken while acting in the person's official capacity.

(g) The board of managers shall continue to operate until dissolved by the commissioner. Members of the board of managers and a charter superintendent serve at the discretion of the commissioner and may be replaced by the commissioner at any time.

Sec. 12.1166. COMPENSATION OF BOARD OF MANAGERS AND CHARTER SUPERINTENDENT. (a) The commissioner may authorize compensation for a member of a board of managers or a charter superintendent appointed under Section 12.1165.

(b) The commissioner shall establish the terms of compensation provided under Subsection (a).

(c) The commissioner shall use funds received by or due to the former charter holder under Section 12.106 for compensation of a charter superintendent or a member of a board of managers.

(d) If funds described by Subsection (c) are not available or the commissioner determines that the circumstances require, the commissioner may use

available agency funds for compensation under this section, provided that the use of the available funds for that purpose is not prohibited by other law.

(e) If the commissioner determines that the amount appropriated for purposes of the Foundation School Program exceeds the amount to which school districts are entitled under Chapters 42 and 46, the commissioner may authorize the comptroller to transfer funds from the Foundation School Program to the agency's administrative account for compensation as provided by this section.

SECTION 3. Section 12.128, Education Code, is amended by adding Subsections (c-1), (c-2), and (f) to read as follows:

No equivalent provision.

(d) If funds described by Subsection (c) are not available or the commissioner determines that the circumstances require, the commissioner may use:

(1) funds from the revoked charter school liquidation account established under Section 12.269; or

(2) available agency funds, provided that the use of the available funds for that purpose is not prohibited by other law.

(e) If the commissioner determines that the amount appropriated for purposes of the Foundation School Program exceeds the amount to which school districts are entitled under Chapters 42 and 46, the commissioner may authorize the comptroller to transfer funds from the Foundation School Program to the agency's administrative account for compensation as provided by this section.

SECTION 3. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1285 and 12.12851 to read as follows:

Sec. 12.1285. TRANSFER OF PUBLIC PROPERTY ON REVOCATION OR SURRENDER OF CHARTER. (a) Not later than the 90th day after the effective date of the revocation or surrender of a charter, the former charter holder shall remit all public funds to the state and:

(1) remit all public personal property to the state, retitle all public real property in the name of the state, and transfer the title for all public real property to the agency;

(2) retitle or remit all public real or personal property to another charter holder for use in student instruction;

(3) retitle or remit all public real or personal property to a school district for use in student instruction; or

(4) provide documentation to the commissioner that:

(A) demonstrates that public real or personal property was returned to the holder of a valid lien or security interest that was perfected before the revocation of the charter to satisfy a creditor under Section 12.128(e); and

(B) includes a written agreement by the creditor to remit to the state all excess proceeds from the sale of the public property after satisfaction of the secured debt.

(b) A charter holder that receives a transfer of public real property under Subsection (a)(2) must:

(1) assume all secured debts and liens on the property;

(2) file an affidavit with the agency stating that the property is public property of the state;

(3) use the property as an instructional facility for students and obtain approval to operate in that facility in accordance with this subchapter; and

(4) return the property to the state if:

(A) the school's charter is revoked;

(B) the charter holder fails to receive approval to operate at the facility in accordance with this subchapter; or

(C) the charter holder fails to use the facility as authorized under this section.

(c) The commissioner shall dispose of any public real property returned to the state under Subsection (b)(4).

(d) A school district that receives a transfer of public real property under Subsection (a)(3) assumes all secured debts and liens on the property.

(e) Notwithstanding the appointment of a board of managers and the termination of the governing body's powers under Section 12.1165(d), the governing body of a charter holder whose charter is revoked or surrendered may determine which entity to transfer public property to under Subsection (a). If a board of managers is managing the school under Section 12.1165, the governing body shall work with the board of managers to ensure that any property being used for student instruction is not transferred or disposed of until after the last day of student instruction at the school that occurs before the effective date of the revocation or surrender of the charter.

Sec. 12.12851. DISPOSITION OF PROPERTY ON REVOCATION OR SURRENDER OF CHARTER.

(a) In supervising the disposition of property under Section 12.128(c)(2), the commissioner may:

(1) file a suit for receivership under Subchapter G; or

(2) seek a court of competent jurisdiction to declare the property to be state property and order the property to be titled in the name of the state.

(b) If a former charter holder returns

(c-1) In supervising the disposition of property under Subsection (c)(2), the commissioner may:

(1) file a suit for receivership under Subchapter G; or

(2) seek a court of competent jurisdiction to declare the property to be state property and order the property to be titled in the name of the state.

(c-2) If the commissioner obtains a court

declaration described by Subsection (c-1)(2):

(1) the General Land Office shall:

(A) sell any real property through any method available to the General Land Office; and

(B) transfer any proceeds of the sale of the real property to the charter school liquidation account established under Section 12.269; and

(2) the Texas Facilities Commission shall transfer any proceeds from the sale of property disposed of under Chapter 2175, Government Code, into the charter school liquidation account established under Section 12.269.

(f) The proceeds of the sale of property under Subsection (c-2) are not subject to the requirements of the General Appropriations Act or statutory requirements or rules related to the general revenue fund.

SECTION 4. Chapter 12, Education Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. CHARTER SCHOOL RECEIVERSHIP AND LIQUIDATION

Sec. 12.251. PURPOSE. The purpose of this subchapter is to aid the commissioner in carrying out the commissioner's duty to supervise the disposition of public property of a charter school that ceases to operate. This subchapter shall be liberally construed to permit the commissioner, acting as a receiver, to promptly dispose of public property to preserve state funds.

Sec. 12.252. DEFINITIONS. In this subchapter:

(1) "Former charter school" means a charter school that may no longer function as a charter school under this chapter or Chapter 39 because the school's charter has been revoked or surrendered.

(2) "Liquidation order" means a final order entered by the receivership court approving the receiver's disposition of all public property and closing the receivership.

(3) "Proposed disposition plan" means a plan presented by the receiver to the court that accounts for the disposition of all assets in the possession of a former charter school.

(4) "Receiver" means the commissioner,

property to the state under Section 12.1285(a)(1) or the commissioner obtains a court declaration described by Subsection (a)(2):

(1) the General Land Office shall:

(A) sell any real property through any method available to the General Land Office; and

(B) transfer any proceeds of the sale of the real property to the revoked charter school liquidation account established under Section 12.269; and

(2) the Texas Facilities Commission shall transfer any proceeds from the sale of property disposed of under Chapter 2175, Government Code, into the revoked charter school liquidation account established under Section 12.269.

(c) The proceeds of the sale of property under Subsection (b) are not subject to the requirements of the General Appropriations Act or statutory requirements or rules related to the general revenue fund.

SECTION 4. Chapter 12, Education Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. CHARTER SCHOOL RECEIVERSHIP AND LIQUIDATION

Sec. 12.251. PURPOSE. The purpose of this subchapter is to aid the commissioner in carrying out the commissioner's duty under Section 12.128 to supervise the disposition of public property assets that are in the possession of a charter school that ceases to operate. This subchapter shall be liberally construed to permit the commissioner, acting as a receiver, to promptly dispose of public property to preserve state assets.

Sec. 12.252. DEFINITIONS. In this subchapter:

(1) "Former charter school" means an open-enrollment charter school that no longer operates as a charter school under this chapter and Chapter 39 because the school's charter has been revoked or surrendered.

(2) "Liquidation order" means a final order entered by the receivership court approving the receiver's disposition of all public property and closing the receivership.

(3) "Proposed disposition plan" means a plan presented by the receiver to the court that accounts for the disposition of all assets in the possession of a former charter school.

(4) "Receiver" means the commissioner,

acting in an official capacity to take possession, assume control, and dispose of public property of a former charter school. The term includes a special deputy receiver.

(5) "Receivership order" means a court order by which the court assumes jurisdiction, opens a receivership proceeding, and appoints the commissioner as the receiver for the assets of a former charter school.

(6) "Special deputy receiver" means a person appointed by or acting under a contract with the commissioner as a receiver on the commissioner's behalf.

Sec. 12.253. RECEIVERSHIP; JURISDICTION AND VENUE. (a) If the commissioner revokes or accepts the surrender of the charter of a charter school, the commissioner may determine that a receivership is warranted to conserve or dispose of public property over which the commissioner assumes control or possession under this chapter or Chapter 39.

(b) At the request of the commissioner, the attorney general shall bring an action in a Travis County district court to appoint a receiver to liquidate the assets of a former charter school or a charter school that has otherwise ceased to operate.

(c) A court does not have jurisdiction over any receivership proceeding for a charter school commenced on behalf of a person other than the commissioner.

(d) Not later than the 30th day after the date the attorney general brings an action to appoint a receiver under this section, the court shall enter a receivership order opening the receivership proceeding.

Sec. 12.254. RECEIVERSHIP ORDER.

Sec. 12.255. POWERS AND DUTIES OF RECEIVER. (a) The receiver may assume or reject any executory contract or unexpired lease of the former charter school.

(b) Notwithstanding any other law, the receiver is authorized to liquidate by sale or contract for sale any real property owned by a former charter school to satisfy debts of the school and return public property and proceeds to the state.

(c) The receiver may dispose of the former charter school's property using provisions for:

(1) the disposal of surplus and salvage

acting in an official capacity to take possession, assume control, and dispose of public property of a former charter school. The term includes a special deputy receiver.

(5) "Receivership order" means a court order by which the court assumes jurisdiction, opens a receivership proceeding, and appoints the commissioner as the receiver for the assets of a former charter school.

(6) "Special deputy receiver" means a person appointed by or acting under a contract with the commissioner as a receiver on the commissioner's behalf.

Sec. 12.253. RECEIVERSHIP; JURISDICTION AND VENUE. (a) If the commissioner revokes or accepts the surrender of the charter of a charter school, the commissioner may determine that a receivership is warranted to conserve or dispose of public property over which the commissioner assumes control or possession under this chapter or Chapter 39.

(b) At the request of the commissioner, the attorney general shall bring an action in a Travis County district court to appoint a receiver to liquidate the assets of a former charter school.

(c) A court does not have jurisdiction over any receivership proceeding for a charter school commenced on behalf of a person other than the commissioner.

(d) Not later than the 30th day after the date the attorney general brings an action to appoint a receiver under this section, the court shall enter a receivership order opening the receivership proceeding.

Sec. 12.254. RECEIVERSHIP ORDER.

Sec. 12.255. POWERS AND DUTIES OF RECEIVER. (a) The receiver may assume or reject any executory contract or unexpired lease of the former charter school.

(b) Notwithstanding any other law, the receiver is authorized to liquidate by sale or contract for sale any real property owned by a former charter school to satisfy debts of the school and return public property and proceeds to the state.

(c) The receiver may elect to dispose of the former charter school's property using provisions for:

(1) the disposal of surplus and salvage

property under Chapter 2175, Government Code; or

(2) the sale of real property under Section 12.128(c-2).

(d) If the receiver disposes of real property under Subsection (c)(2), the receivership court shall assume sole jurisdiction of the transfer of title.

(e) The receiver shall dispose of any property determined to be held in trust or any federal property in compliance with applicable law.

Sec. 12.256. APPLICABILITY OF OTHER LAWS. (a) Any law governing the procurement of goods and services by the state does not apply to a contract entered into by the commissioner as a receiver. This section does not waive any immunity or create a cause of action against the state.

(b) A receiver appointed under this subchapter may not be required to pay any filing, recording, transcript, or authentication fee to any public officer in the state.

Sec. 12.257. SPECIAL DEPUTY RECEIVER; OTHER EMPLOYMENT. (a) The receiver may appoint or contract with one or more special deputy receivers to act for the receiver under this subchapter and employ or contract with legal counsel, actuaries, accountants, appraisers, consultants, clerks, assistants, and other personnel necessary to assist in the liquidation of the former charter school's assets.

(b) A special deputy receiver has all powers of the receiver granted by this subchapter, unless specifically limited by the receiver, and serves at the pleasure of the receiver.

(c) A special deputy receiver or other person with whom the receiver contracts under this section may act on behalf of the commissioner only in the commissioner's capacity as receiver.

(d) The receiver may determine the reasonable compensation for any special deputy, employee, or contractor and pay compensation in accordance with Section 12.262.

Sec. 12.258. PERFORMANCE BOND REQUIRED. The receiver shall execute a

property under Chapter 2175, Government Code; or

(2) the sale of real property under Section 12.12851(b).

(d) If the receiver disposes of real property under Subsection (c)(2), the receivership court shall assume sole jurisdiction of the transfer of title.

(e) If the receiver or court determines that property placed in the receivership is federal or trust property or otherwise not state public property, the receiver must dispose of that property in accordance with applicable law.

Sec. 12.256. APPLICABILITY OF OTHER LAWS. (a) Any law governing the procurement of goods and services by the state does not apply to a contract entered into by the commissioner as a receiver. This subchapter does not waive any immunity or create a cause of action against the state.

(b) A receiver appointed under this subchapter may not be required to pay any filing, recording, transcript, or authentication fee to any public officer in the state.

Sec. 12.257. SPECIAL DEPUTY RECEIVER; OTHER EMPLOYMENT. (a) The receiver may appoint or contract with one or more special deputy receivers to act for the receiver under this subchapter and may employ or contract with legal counsel, actuaries, accountants, appraisers, consultants, clerks, assistants, and other personnel necessary to assist in the liquidation of the former charter school's assets.

(b) A special deputy receiver has all powers of the receiver granted by this subchapter, unless specifically limited by the receiver and except as provided in Sections 12.259(b), 12.262(d) and (e), and 12.264(c), and serves at the pleasure of the receiver.

(c) A special deputy receiver or other person with whom the receiver contracts under this section may act on behalf of the commissioner only in the commissioner's capacity as receiver.

(d) The receiver may determine the reasonable compensation for any special deputy receiver, employee, or contractor and pay compensation in accordance with Section 12.262.

Sec. 12.258. PERFORMANCE BOND. The court may require a special deputy

bond to ensure the proper performance of the receiver's duties under this subchapter in an amount to be set by the court.

Sec. 12.259. ASSETS OF FORMER CHARTER SCHOOL. (a) The receiver or a special deputy receiver shall take possession of all student records, books, papers, electronic data, personal and real property, and other assets purchased or acquired, wholly or partly, with state funds of a former charter school.

(b) If a record or asset described under Subsection (a) is in the possession of a special deputy receiver, the receiver may review that asset promptly on request made to the special deputy receiver.

(c) A receiver or special deputy receiver is required to comply with the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g).

Sec. 12.260. IMMUNITY, INDEMNIFICATION, AND REPRESENTATION.

Sec. 12.261. REQUESTED NOTICE. (a) On written request to the receiver, a person must be placed on the service list to receive notice of matters filed by the receiver. It is the responsibility of the person requesting notice to inform the receiver in writing of any changes in the person's address or to request that the person's name be deleted from the service list. The receiver may require that a person on the service list provide confirmation to remain on the service list. Any person who fails to confirm the person's intent to remain on the service list may be purged from the service

receiver to execute a bond to ensure the proper performance of the special deputy receiver's duties under this subchapter in an amount to be set by the court.

Sec. 12.259. ASSETS OF FORMER CHARTER SCHOOL. (a) The receiver or a special deputy receiver shall take possession of all student and personnel records, books, papers, electronic data, personal and real property, and other assets purchased or acquired, wholly or partly, with state funds of a former charter school.

(b) If a record or asset described by Subsection (a) is in the possession of a special deputy receiver, the receiver may review that asset promptly on request made to the special deputy receiver.

(c) Notwithstanding Section 12.128(a) or (b), if the charter holder can show through the charter holder's records that any real property was purchased or acquired with nonpublic funds, the receiver shall:

(1) return the real property to the former charter holder in accordance with Section 12.255(e) if the real property was purchased wholly with nonpublic funds; or

(2) remit to the former charter holder the net proceeds from the sale of the real property in proportion to the amount of nonpublic funds used to purchase or acquire the real property if the real property was purchased partially with public funds.

(d) The receiver or special deputy receiver is required to comply with the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g).

Sec. 12.260. IMMUNITY, INDEMNIFICATION, AND REPRESENTATION.

Sec. 12.261. REQUESTED NOTICE. (a) On written request to the receiver, a person must be placed on the service list to receive notice of matters filed by the receiver. It is the responsibility of the person requesting notice to inform the receiver in writing of any changes in the person's address or e-mail address or to request that the person's name be deleted from the service list. The receiver may require that a person on the service list provide confirmation to remain on the service list. Any person who fails to confirm the person's intent to remain on the service list may be purged from the service

list. Inclusion on the service list does not confer standing in the receivership proceeding to raise, appear, or be heard on any issue.

(b) Notice of a proposed disposition plan to a person on the service list must be provided as established by Section 12.265.

Sec. 12.262. APPROVAL AND PAYMENT OF EXPENSES. (a) The receiver shall submit an estimate of expenses to the receivership court for approval.

(b) The receiver may pay any expenses under contracts, leases, employment agreements, or other arrangements entered into by the former charter school before receivership from the assets of the former charter school. The receiver is not required to pay any expenses that the receiver determines are not necessary and may reject any contract under Section 12.257.

(c) The receiver may deposit former charter school funds in the charter school liquidation account established under Section 12.269 and pay former charter school expenses from that account.

(d) If a special deputy receiver has been appointed to pay certain expenses and the special deputy receiver has insufficient funds to pay those expenses from the assets of the former charter school, the special deputy receiver may request that the receiver draw funds from the charter school liquidation account established under Section 12.269 to pay the expenses.

(e) If the receiver determines that the expenses under Subsection (d) are necessary, the receiver may withdraw the amount necessary to pay the expenses of the receivership.

Sec. 12.263. PRIORITIZATION AND SATISFACTION OF DEBTS. (a) The state, commissioner, or receiver may not be held liable for the debts or liabilities incurred by a former charter school.

(b) The receiver shall satisfy debts of a former charter school in accordance with a proposed disposition plan after payment of:

list. Inclusion on the service list does not confer standing in the receivership proceeding to raise, appear, or be heard on any issue.

(b) Notice of a proposed disposition plan to a person on the service list must be provided as established by Section 12.265.

Sec. 12.262. APPROVAL AND PAYMENT OF EXPENSES. (a) The receiver shall submit an estimate of expenses to the receivership court for approval. The expenses of a receivership under this section do not include the debts of a former charter school under Sections 12.263(b)(1) and (2).

(b) The receiver may pay any expenses under contracts, leases, employment agreements, or other arrangements entered into by the former charter school before receivership from the assets of the former charter school. The receiver is not required to pay any expenses that the receiver determines are not necessary and may reject any contract under Section 12.255(a).

(c) The receiver may deposit former charter school funds in the revoked charter school liquidation account established under Section 12.269 and pay former charter school expenses from that account.

(d) If a special deputy receiver has been appointed to pay certain expenses and the special deputy receiver has insufficient funds to pay those expenses from the assets of the former charter school, the special deputy receiver may request that the receiver draw funds from the revoked charter school liquidation account established under Section 12.269 to pay the expenses.

(e) If the receiver determines that the expenses under Subsection (d) are necessary, the receiver may withdraw the amount necessary to pay the expenses of the receivership.

Sec. 12.263. PRIORITIZATION AND SATISFACTION OF DEBTS. (a) The state, commissioner, or receiver may not be held liable for the debts or liabilities incurred by a former charter school.

(b) Unless otherwise prohibited by federal law, the receiver shall satisfy debts of a former charter school in accordance with a proposed disposition plan after payment of:

(1) secured debts and liens perfected on public property before the school's charter

(1) debts to state and federal governmental entities, including payments to a conservator, monitor, superintendent, or member of a board of managers or management;

(2) perfected liens;

(3) secured debts; and

(4) expenses of the receivership.

(c) After satisfaction of the debts and expenses listed in Subsection (b), any remaining state assets of a former charter school shall be used to satisfy debts in the following priority, unless otherwise ordered by the receivership court:

(1) salary owed to non-administrative faculty and staff;

(2) unpaid, unsecured rent on leasehold;

(3) vendors; and

(4) any other debts recognized by law.

Sec. 12.264. PROPOSED DISPOSITION PLAN. (a) The receiver shall file with the court a proposed disposition plan that accounts for:

(1) the disposition of all known assets of the former charter school; and

(2) the amount of all expenses that the receiver may incur.

(b) The proposed disposition plan must specifically identify any property that is not considered to be public property under Section 12.128.

(c) If the commissioner appoints a special deputy receiver to develop the disposition plan, the special deputy receiver must present the plan to the commissioner for approval before filing the plan with the court.

Sec. 12.265. NOTICE OF PROPOSED DISPOSITION PLAN. (a) Unless the receivership court otherwise directs, the receiver shall give notice of the proposed disposition plan as soon as possible:

(1) by first class mail or electronic communication as permitted by the receivership court to:

(A) any person known or reasonably expected to have a claim against the former charter school, at the person's last known address as indicated by the records of the former charter school;

(B) each state and federal agency with an

was revoked, as described by Section 12.128(e);

(2) debts to state and federal governmental entities, including payments to a conservator, monitor, superintendent, or member of a board of managers or management; and

(3) expenses of the receivership.

(c) After satisfaction of the debts and expenses listed in Subsection (b), any remaining state assets of a former charter school shall be used to satisfy debts in the following priority, unless otherwise ordered by the receivership court:

(1) salary owed to non-administrative faculty and staff;

(2) unpaid, unsecured rent on leasehold;

(3) vendors; and

(4) any other debts recognized by law.

Sec. 12.264. PROPOSED DISPOSITION PLAN. (a) The receiver shall file with the court a proposed disposition plan that accounts for:

(1) the disposition of all known assets of the former charter school;

(2) the amount of all expenses that the receiver may incur; and

(3) any debts of the former charter school that the receiver proposes to satisfy.

(b) The proposed disposition plan must specifically identify any property that is not considered to be public property under Section 12.128.

(c) If the commissioner appoints a special deputy receiver to develop the disposition plan, the special deputy receiver must present the plan to the commissioner for approval before filing the plan with the court.

Sec. 12.265. NOTICE OF PROPOSED DISPOSITION PLAN. (a) Unless the receivership court otherwise directs, the receiver shall give notice of the proposed disposition plan as soon as possible:

(1) by first class mail or electronic communication as permitted by the receivership court to:

(A) any person known or reasonably expected to have a claim against the former charter school, at the person's last known address as indicated by the records of the former charter school;

(B) each state and federal agency with an

interest in the proceeding; and
(C) any person on the service list under Section 12.261; and
(2) by publication in a newspaper of general circulation in the county in which the principal place of business of the former charter school was located, in any county in which the former charter holder operated a school, and in any other location as the receiver deems appropriate.

(b) The notice of the proposed disposition plan must contain or provide directions for obtaining the following information:

(1) a statement that the former charter school has ceased to operate and that the commissioner has taken possession and assumed control of the school's assets under Section 12.128;

(2) a statement of the date, time, and location of any initial status hearing scheduled at the time the notice is sent;

(3) a description of the process for obtaining notice of matters before the receivership court; and

(4) any other information the receiver or the receivership court deems appropriate.

(c) If notice is given in accordance with this section, the distribution of property of the former charter school under this subchapter is conclusive with respect to all claimants, regardless of whether the claimant received notice.

(d) Notwithstanding any other provision of this section, the receiver has no duty to locate any person if an address is not found in the records of the former charter school or if mailings are returned to the receiver because of the inability to deliver to the address shown in the records of the school. If notice is not given to a person as provided by this subsection, notice by publication or actual notice received is sufficient.

(e) Written certification by the receiver or other knowledgeable person acting for the receiver that the notice was deposited in the United States mail, postage prepaid, or that the notice has been electronically transmitted is prima facie evidence of mailing and receipt of notice. All claimants shall keep the receiver informed of any changes of address.

Sec. 12.266. HEARING AND APPEAL ON DISPOSITION PLAN.

interest in the proceeding; and
(C) any person on the service list under Section 12.261; and
(2) by publication in a newspaper of general circulation in the county in which the principal place of business of the former charter school was located, in any county in which the former charter holder operated a school during the preceding three school years, and in any other location the receiver deems appropriate.

(b) The notice of the proposed disposition plan must contain or provide directions for obtaining the following information:

(1) a statement that the former charter school has ceased to operate and that the commissioner has taken possession and assumed control of the school's assets under Section 12.128;

(2) a statement of the date, time, and location of any initial status hearing scheduled at the time the notice is sent;

(3) a description of the process for obtaining notice of matters before the receivership court; and

(4) any other information the receiver or the receivership court deems appropriate.

(c) If notice is given in accordance with this section, the distribution of property of the former charter school under this subchapter is conclusive with respect to all claimants, regardless of whether the claimant received notice.

(d) Notwithstanding any other provision of this section, the receiver has no duty to locate any person if an address is not found in the records of the former charter school or if mailings are returned to the receiver because of the inability to deliver to the address shown in the records of the school. If notice is not given to a person as provided by this subsection, notice by publication or actual notice received is sufficient.

(e) Written certification by the receiver or other knowledgeable person acting for the receiver that the notice was deposited in the United States mail, postage prepaid, or that the notice has been electronically transmitted is prima facie evidence of mailing and receipt of notice. All claimants shall keep the receiver informed of any changes of address.

Sec. 12.266. HEARING AND APPEAL ON DISPOSITION PLAN

Sec. 12.267. LIQUIDATION ORDER

Sec. 12.268. DISPOSITION OF REMAINING FUNDS. After a liquidation order has been entered, the commissioner shall deposit any remaining funds from the former charter school in the charter school liquidation account established under Section 12.269.

Sec. 12.269. CHARTER SCHOOL LIQUIDATION ACCOUNT. (a) The commissioner shall remit to the comptroller funds received under Sections 12.116 and 12.128 and this subchapter for deposit in an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company to be known as the charter school liquidation account. Money in the account may be spent by the commissioner only for the purposes provided by this section.

(b) The charter school liquidation account shall be administered by the commissioner to pay the expenses incurred during a receivership of any former charter school.

(c) The commissioner shall annually review the charter school liquidation account and transfer any funds exceeding \$2 million to the comptroller for deposit in the charter district bond guarantee reserve fund established under Section 45.0571. The commissioner may delay a transfer under this subsection if the excess does not exceed \$100,000.

Sec. 12.270. RULES.

No equivalent provision.

SECTION 5. This Act takes effect September 1, 2015.

Sec. 12.267. LIQUIDATION ORDER.

Sec. 12.268. DISPOSITION OF REMAINING FUNDS. After a liquidation order has been entered, the commissioner shall deposit any remaining funds from the former charter school in the revoked charter school liquidation account established under Section 12.269.

Sec. 12.269. REVOKED CHARTER SCHOOL LIQUIDATION ACCOUNT. (a) The commissioner shall remit to the comptroller funds received under Sections 12.116, 12.128, 12.1285, and this subchapter for deposit in an interest-bearing deposit account outside the treasury in the Texas Treasury Safekeeping Trust Company to be known as the revoked charter school liquidation account. Money in the account may be spent by the commissioner only for the purposes provided by this section.

(b) The revoked charter school liquidation account shall be administered by the commissioner to pay the expenses:

(1) incurred during a receivership of a former charter school;

(2) of managing a former charter school under Section 12.116; or

(3) of disposing of property under Section 12.128, 12.1285, or 12.12851.

(c) The commissioner shall annually review the revoked charter school liquidation account and transfer any funds exceeding \$2 million to the comptroller for deposit in the charter district bond guarantee reserve fund established under Section 45.0571. The commissioner may delay a transfer under this subsection if the excess does not exceed \$100,000.

Sec. 12.270. RULES.

SECTION 5. Subchapter A, Chapter 2175, Government Code, is amended by adding Section 2175.005 to read as follows:

Sec. 2175.005. CHARTER SCHOOLS. For purposes of this chapter, a charter school is treated as a political subdivision that has the authority to acquire surplus or salvage property.

SECTION 6. 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, 2015.