

BILL ANALYSIS

C.S.S.B. 1177
By: Hughes
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, certain procedures for granting an open-enrollment charter school application need to be revised and recently enacted legislation that authorizes the commissioner of education to grant a charter to a detention, correctional, or residential facility established only for juvenile offenders is in need of clarification. C.S.S.B. 1177 seeks to address these issues.

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 2 of this bill.

ANALYSIS

C.S.S.B. 1177 amends the Education Code to require the State Board of Education (SBOE) to adopt procedures for the appeal of an application selection determination made based on the submission of an open-enrollment charter school application under a selection process that includes scoring criteria and procedures for use of the criteria by an external application review panel selected by the commissioner of education and selection criteria that include the minimum score necessary for an applicant to be eligible for selection. The bill requires the procedures to provide for an applicant who scores within five percentage points of the minimum score necessary for an applicant to be eligible for selection to appeal to the SBOE a score determined by the external application review panel. The bill prohibits the SBOE, under the procedures, from providing more than 15 days from the date the applicant receives notice that the applicant did not meet the minimum score for the applicant to submit a request for an appeal. The determination of the SBOE in an appeal under the procedures is final. The bill requires the commissioner, if the charter applicant prevails in an appeal to the SBOE, to consider the applicant's application. The bill establishes that, if the SBOE fails to issue a determination in an appeal on or before the 90th day after the date the applicant submits a request for an appeal, the decision of the external application review panel is affirmed.

C.S.S.B. 1177 repeals provisions that require the commissioner to notify the SBOE of each charter the commissioner proposes to grant, establish that the commissioner's proposal to grant a charter takes effect unless a majority of SBOE members present and voting vote against the grant of that charter by a certain date, and prohibit the SBOE from deliberating or voting on any grant of a charter not proposed by the commissioner.

C.S.S.B. 1177, effective September 1, 2017, amends the Human Resources Code to include an eligible entity that has entered into a contract with a detention, correctional, or residential facility established only for juvenile offenders among those to whom the commissioner may grant a

charter on the application of the entity. For such purposes, "eligible entity" means a public, private, or independent institution of higher education, a charitable organization exempted from federal income tax under the federal Internal Revenue Code of 1986, or a governmental entity. The bill requires the commissioner to adopt a form and procedure to allow a detention, correctional, or residential facility established only for juvenile offenders or an eligible entity that has entered into a contract with such a facility to apply for a charter and requires the application form and procedure to be comparable to the applicable Education Code requirements for an open-enrollment charter school application and to include any requirements provided under provisions of the Education Code applicable to open-enrollment charter schools.

C.S.S.B. 1177 entitles a charter school operating under a charter granted to a detention, correctional, or residential facility or an eligible entity that has entered into a contract with such a facility to receive open-enrollment charter school funding under the foundation school program in the same manner as an open-enrollment charter school. The bill requires the commissioner to adopt rules necessary to implement provisions relating to charter schools operating under a charter granted to a detention, correctional, or residential facility or an eligible entity that has entered into a contract with such a facility, including rules that modify the requirements for charter schools provided under the Education Code as necessary to allow a charter school to operate in a detention, correctional, or residential facility.

C.S.S.B. 1177 repeals Section 12.101(b-0), Education Code.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1177 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1102 to read as follows:

Sec. 12.1102. APPEAL OF APPLICATION SELECTION DETERMINATION. (a) This section applies only if the charter application selection process includes:

(1) scoring criteria and procedures for use of the criteria by an external application review panel selected by the commissioner; and

(2) selection criteria that include the minimum score necessary for an applicant to be eligible for selection.

(b) The State Board of Education shall adopt procedures for the appeal of an application selection determination made based on the submission of an application under a process described by Subsection (a).

(c) The procedures adopted under this section must provide for an applicant who

scores within five percentage points of the minimum score necessary for an applicant to be eligible for selection to appeal to the State Board of Education a score determined by the external application review panel. Under the procedures adopted under this section, the State Board of Education may not provide more than 15 days from the date the applicant receives notice that the applicant did not meet the minimum score for the applicant to submit a request for an appeal.

(d) The determination of the State Board of Education in an appeal under the procedures adopted under this section is final.

(e) If the charter applicant prevails in an appeal to the State Board of Education, the commissioner shall consider the applicant's application.

(f) If the State Board of Education fails to issue a determination in an appeal on or before the 90th day after the date the applicant submits a request for an appeal, the decision of the external application review panel is affirmed.

SECTION 1. Section 221.0071, Human Resources Code, is amended. to read as follows:

Sec. 221.0071. CHARTER SCHOOL. (a) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education may grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders under Section 51.12, 51.125, or 51.126, Family Code, or an eligible entity that has entered into a contract with a facility described by this subsection.

(b) If a local detention, correctional, or residential facility described by Subsection (a) or an eligible entity that has entered into a contract with a facility described by Subsection (a) applies for a charter, the facility or the eligible entity must provide all educational opportunities and services, including special education instruction and related services, that a school district is required under state or federal law to provide for students residing in the district through a charter school operated in accordance with and subject to Subchapter D, Chapter 12, Education Code.

(c) The commissioner of education shall

SECTION 2. Effective September 1, 2017, Section 221.0071, Human Resources Code, is amended. to read as follows:

Sec. 221.0071. CHARTER SCHOOL. (a) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education may grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders under Section 51.12, 51.125, or 51.126, Family Code, or an eligible entity that has entered into a contract with a facility described by this subsection.

(b) If a local detention, correctional, or residential facility described by Subsection (a) or an eligible entity that has entered into a contract with a facility described by Subsection (a) applies for a charter, the facility or the eligible entity must provide all educational opportunities and services, including special education instruction and related services, that a school district is required under state or federal law to provide for students residing in the district through a charter school operated in accordance with and subject to Subchapter D, Chapter 12, Education Code.

(c) The commissioner of education shall

adopt a form and procedure to allow a detention, correctional, or residential facility described by Subsection (a) or an eligible entity that has entered into a contract with a facility described by Subsection (a) to apply for a charter. The application form and procedure must be comparable to the applicable requirements of Section 12.110, Education Code, and must include any requirements provided under Subchapter D, Chapter 12, Education Code.

(d) A charter school operating under a charter granted under this section is entitled to receive open-enrollment charter school funding under Chapter 42, Education Code, in the same manner as an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.

(e) The commissioner of education shall adopt rules necessary to implement this section, including rules that modify the requirements for charter schools provided under Chapter 12, Education Code, as necessary to allow a charter school to operate in a detention, correctional, or residential facility described by Subsection (a).

(f) In this section, "eligible entity" has the meaning assigned by Section 12.101(a), Education Code.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 2. This Act takes effect September 1, 2017.

adopt a form and procedure to allow a detention, correctional, or residential facility described by Subsection (a) or an eligible entity that has entered into a contract with a facility described by Subsection (a) to apply for a charter. The application form and procedure must be comparable to the applicable requirements of Section 12.110, Education Code, and must include any requirements provided under Subchapter D, Chapter 12, Education Code.

(d) A charter school operating under a charter granted under this section is entitled to receive open-enrollment charter school funding under Chapter 42, Education Code, in the same manner as an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.

(e) The commissioner of education shall adopt rules necessary to implement this section, including rules that modify the requirements for charter schools provided under Chapter 12, Education Code, as necessary to allow a charter school to operate in a detention, correctional, or residential facility described by Subsection (a).

(f) In this section, "eligible entity" has the meaning assigned by Section 12.101(a), Education Code.

SECTION 3. Section 12.101(b-0), Education Code, is repealed.

SECTION 4. As soon as practicable after Section 12.1102, Education Code, as added by this Act, takes effect, the State Board of Education shall adopt procedures for the appeal of an application selection determination as provided by that section.

SECTION 5. Section 12.1102, Education Code, as added by this Act, applies only to an application submitted on or after the effective date of that section.

SECTION 6. Except as otherwise provided by this Act, 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.