

SUBJECT: Offense for misuse of state funds by charter school officials

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 5 ayes — Hinojosa, Dunnam, Garcia, Kitchen, Martinez Fischer
1 nay — Green
3 absent — Keel, Talton, Shields

WITNESSES: For — *Registered but did not testify*: Marjorie Wall, Texas State Teachers Association; Melody Chatelle, Texas Classroom Teachers Association
Against — None

DIGEST: CSHB 2561 would make it a criminal offense for members of the governing body of an open-enrollment charter school, a charter holder, or any other person, with intent to obtain a benefit, knowingly to misuse property, services, personnel, assets, credit, funds, or any other thing of value obtained with state funds received by the charter school or charter holder. The seriousness of the offense would increase as the value of the thing misused increased. An offense would be a:

- ! Class C misdemeanor (maximum fine of \$500) if the value was less than \$20;
- ! Class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the value was at least \$20 but less than \$500;
- ! Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if the value was at least \$500 but less than \$1,500;
- ! state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if the value was at least \$1,500 but less than \$20,000;
- ! third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the value was at least \$20,000 but less than \$100,000;
- ! second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the value was at least \$100,000 but less than \$200,000;

or

! first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the value was \$200,000 or more.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 2561 is necessary to ensure that charter school officials do not misuse funds meant for the schools. In one case, a charter school allegedly used funds it received from the state to enhance bingo prizes. Because the funds cease to be state funds when received by the charter schools, current law relating to the misuse of funds by school officials does not apply.

The term “misuse” is well defined in case law, and CSHB 2561 would apply the same penalties to charter school officials who misuse state funds as are applied to public school officials.

**OPPONENTS
SAY:**

Because the term “misuse” is vague and not defined, CSHB 2561 would be too broad and could allow prosecution of charter schools officials simply because of disagreements about how money was spent.

NOTES:

The committee substitute added “any other person” to the list of those who could commit an offense and added assets, credit, and funds to the list of things that could be subject to misuse.