

BILL ANALYSIS

Senate Research Center

H.B. 6
By: Dunnam (Bivins)
Education
5/3/2001
Engrossed

DIGEST AND PURPOSE

On May 30, 1995, the Texas Legislature authorized an initial set of 20 open-enrollment charter schools to create competition and innovation in Texas public schools as a whole. The House Public Education Committee established an interim subcommittee on charter schools to evaluate the charter school program and report to the 77th Legislature. The subcommittee reports that there is little evidence to support that charter schools are using innovative teaching methods or that they are performing as well as traditional public schools. Financial troubles and statutory ambiguities have contributed to the abrupt failures of several charter schools. In some cases, the sudden closing of the schools resulted in displaced students having to repeat a grade. Yet the number of charter schools has grown to approximately 200, and the subcommittee reports that without restrictions, Texas could see over 1,000 charter campuses in the next few years. Unless the growth of charter schools is slowed and the accountability and oversight strengthened, the subcommittee concludes problems will continue to occur at a faster rate than the State Board of Education can discover and solve them. H.B. 6 establishes a two-year moratorium on new charters for open-enrollment charter schools and strengthens the accountability and oversight provisions regarding the operation of open-enrollment charter schools.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTIONS 8 (Section 12.104, Education Code) and 24 (Sections 12.125 and 12.127, Education Code), to the State Board of Education in SECTIONS 24 (Section 12.123, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8.002, Education Code, as follows:

Sec. 8.002. PURPOSE. Sets forth legislative purpose.

SECTION 2. Amends Section 8.003(b), Education Code, to require the rules to provide that if 500 or more students residing within the service center region attend open-enrollment charter schools, the commissioner of education (commissioner) is required to appoint a representative of an open-enrollment charter school located within the region to serve on the regional education service center board of directors.

SECTION 3. Amends Sections 8.051, 8.053, and 8.054, Education Code, as follows:

Sec. 8.051. CORE SERVICES AND SERVICES TO IMPROVE PERFORMANCE. (a) Requires each regional education service center to use funds distributed to the center under Section 8.121 to develop, maintain, and deliver services identified under this section to improve student, school district, and open-enrollment charter school performance. Makes a conforming change.

(b) Requires each plan to include the purposes and description of the services the center will provide to certain campuses.

(c) Makes a conforming change.

(d) Requires each regional education service center to maintain core services for purchase by school districts, campuses, and open-enrollment charter schools and campuses of those schools. Sets forth services constituting core services.

Sec. 8.053. ADDITIONAL SERVICES. Makes a conforming change.

Sec. 8.054. PROHIBITION ON REGULATORY FUNCTION. Makes conforming changes.

SECTION 4. Amends Section 8.101, Education Code, to require the commissioner to establish performance standards and indicators for regional education centers that measure the achievement of the objectives in Section 8.002, including performance standards and indicators that evaluate the assistance provided to open-enrollment charter schools. Requires performance standards and indicators to include certain criteria.

SECTION 5. Amends Chapter 12A, Education Code, by amending Section 12.001 and adding Section 12.0011, as follows:

Sec. 12.001. PURPOSES OF CHAPTER. (a) Sets forth purposes of this chapter.

(b) Requires this chapter to be applied in a manner that ensures the fiscal and academic accountability of persons holding charters issued under this chapter. Prohibits this chapter from being applied in a manner that unduly regulates the instructional methods or pedagogical innovations of charter schools.

Sec. 12.0011. Designates Section 12.0011 from existing text regarding ALTERNATIVE METHOD OF OPERATION.

SECTION 6. Amends Chapter 12D, Education Code, by adding Sections 12.1012-12.1015, as follows:

Sec. 12.1012. DEFINITIONS. Defines “charter holder,” “governing body of a charter holder,” “governing body of an open-enrollment charter school,” “management company,” “management services,” and “officer.”

Sec. 12.1013. DELEGATION BY STATE BOARD OF EDUCATION. (a) Authorizes the State Board of Education to delegate to the commissioner any power or duty of the board under this subchapter, other than the power to grant, deny, modify, place on probation, deny renewal of, or revoke a charter for an open-enrollment charter school.

(b) Authorizes the commissioner to conduct hearings on any issue as to which a hearing is authorized under this subchapter.

Sec. 12.1014. MINIMUM STUDENT ENROLLMENT. (a) Prohibits the State Board of Education from granting a charter to or renewing the charter of an open-enrollment charter school unless the board determines that the school will have and maintain an enrollment of at least 50 students, except that a school is authorized to have an enrollment of not fewer than 20 students if the board specifically finds that the nature of the school requires an enrollment of fewer than 50 students.

(b) Authorizes the State Board of Education to revoke an open-enrollment charter school’s charter if, for a period prescribed by board rule, the school’s enrollment is lower than the number of students authorized under Subsection (a).

Sec. 12.1015. MORATORIUM ON NEW CHARTERS. (a) Prohibits the State Board of Education, notwithstanding Sections 12.101 and 12.1011, from issuing a charter for an open-enrollment charter school after August 31, 2001.

(b) Provides that this section expires September 1, 2003.

SECTION 7. Amends Section 12.103, Education Code, as follows:

Sec. 12.103. New heading: GENERAL APPLICABILITY OF LAWS AND RULES TO OPEN-ENROLLMENT CHARTER SCHOOL. (a) Provides that an open-enrollment charter school is subject to federal and state laws and rules governing public schools or public school districts, including state laws listed in Sections 12.1051 and 12.1053, except as provided by Subsection (b) or (c).

(b) Makes a conforming change.

(c) Provides that an open-enrollment charter school is not subject to a state law or rule governing public school districts if the commissioner determines it is impracticable or inefficient to apply the law or rule to open-enrollment charter schools.

SECTION 8. Amends Section 12.104, Education Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Provides that an open-enrollment charter school is subject to certain criteria.

(c) Authorizes the commissioner to adopt rules applying provisions of this code other than those listed in Subsection (b) to open-enrollment charter schools to the extent the commissioner determines is necessary or advisable to provide and account for state funding of open-enrollment charter schools under Section 12.106.

(d) Provides that an open-enrollment charter school is subject to the requirement relating to the length of the school day under Section 25.082 unless the commissioner grants the open-enrollment charter school a waiver from that requirement under Section 12.1041.

SECTION 9. Amends Chapter 912D, Education Code, by adding Section 12.1041, as follows:

Sec. 12.1041. WAIVER OF REQUIREMENT RELATING TO LENGTH OF SCHOOL DAY. (a) Requires an open-enrollment charter school that, for purposes of Section 12.104(d), is seeking a waiver of the requirement relating to the school day under Section 25.082 to submit a written application to the commissioner not later than the 31st day before the date the open-enrollment charter school intends to provide a shorter school day. Requires the application to include a statement of achievement objectives of the open-enrollment charter school and the inhibition imposed on those objectives by the requirement.

(b) Prohibits the commissioner, subject to Subsection (c), from denying an application for a waiver under this section submitted by an open-enrollment charter school rated as academically acceptable or higher under Chapter 39 for each of the preceding three school years.

(c) Prohibits the commissioner from granting a waiver under this section if, as determined by the commissioner, a purpose of the waiver application is to support any athletic or artistic activity.

(d) Provides that if the commissioner objects to the application for the waiver, not later than the 30th day after the date the commissioner receives the application the

commissioner is required to notify the open-enrollment charter school in writing that the application is denied. Provides that if the commissioner does not notify the school of a denial within that period, the application is considered approved.

(e) Provides that a waiver granted under this section is effective for the period stated in the application, which is prohibited from exceeding three years. Authorizes an open-enrollment charter school for which the requirement under Section 25.082 is waived under this section for a period of three years to receive an exemption from that requirement at the end of that period if the school has fulfilled the achievement objectives stated in the application. Provides that the exemption remains in effect until the commissioner determines that achievement levels of the school have declined.

SECTION 10. Amends Chapter 12D, Education Code, by amending Section 12.105 and adding Sections 12.1051-12.1055, as follows:

Sec. 12.1051. STATUS. Makes a nonsubstantive change.

Sec. 12.1051. APPLICABILITY OF OPEN MEETINGS AND PUBLIC INFORMATION LAWS. (a) Provides that the governing body of a charter holder and the governing body of an open-enrollment charter school are considered to be governmental bodies for purposes of Chapters 551 and 552, Government Code. Makes nonsubstantive changes.

(b) Provides that any requirement in Chapter 551 (Open Meetings) or 552 (Public Information), Government Code, that applies, rather than those chapters relating, to a school district, the board of trustees of a school district, rather than school board, or public school students, rather than children, applies to an open-enrollment charter school, the governing body of a charter holder, the governing body attending an open-enrollment charter school. Makes a conforming change.

Sec. 12.1052. APPLICABILITY OF LAWS RELATING TO LOCAL GOVERNMENT RECORDS. (a) Provides that an open-enrollment charter school is considered to be a local government for purposes of Title 6(C) (Records Provisions Applying to More Than One Type of Local Government), Local Government Code, and Chapter 441J (Preservation and Management of Local Government Records), Government Code.

(b) Provides that records of an open-enrollment charter school and records of a charter holder that relate to an open-enrollment charter school are government records for all purposes under state law.

(c) Requires any requirement in Title 6(C), Local Government Code, or Chapter 441(J), Government Code, that applies to certain entities to be transferred in the manner prescribed by Subsection (d).

(d) Requires the records of an open-enrollment charter school that ceases to operate to be transferred in the manner specified by the commissioner to a custodian designated by the commissioner. Authorizes the commissioner to designate any appropriate entity to serve as custodian, including the agency, a regional education service center, or a school district. Requires the commissioner, in designating a custodian, to ensure that the transferred records, including student and personnel records, are transferred to a custodian capable of meeting certain conditions.

(e) Authorizes the commissioner, if the charter holder of an open-enrollment charter school that ceases to operate or an officer or employee of such a school refuses to transfer school records in the manner specified by the commissioner under Subsection (d), to ask the attorney general to petition a court for recovery of the records. Requires

the court, if the court grants the petition, to award attorney's fees and court costs to the state.

Sec. 12.1053. APPLICABILITY OF LAWS RELATING TO PUBLIC PURCHASING AND CONTRACTING. (a) Provides that an open-enrollment charter school is considered to be a governmental entity, a political subdivision, and a local government, for the purposes of various portions of the Government and Local Government Codes.

(b) Provides that certain persons are considered to be local public officials for purposes of Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code.

(c) Provides that a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to certain persons or entities.

Sec. 12.1054. IMMUNITY FROM LIABILITY. Makes a conforming change.

Sec. 12.1055. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF TEXAS. (a) Requires an employee of an open-enrollment charter school or management company who qualifies for membership in the Teacher Retirement System of Texas to be covered under the system to the same extent a qualified employee of a school district is covered.

(b) Provides that for each employee of the school or company covered under the system, the charter holder or company, rather than school, is responsible for making any contribution that otherwise would be the legal responsibility of the school district, and the state is responsible for making contributions to the same extent it would be legally responsible if the employee were a school district employee.

SECTION 11. Amends Sections 12.106-12.108, Education Code, as follows:

Sec. 12.106. STATE FUNDING. (a) Provides that a charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 as if the loan were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue ("LR") for purposes of Section 43.202. Provides that in determining funding for an open-enrollment charter school, adjustments under Sections 42.102, 42.103, 42.104, and 42.105 and the district enrichment tax rate ("DTR") under Section 42.302 are based on the average adjustment and average district enrichment tax rate for the state.

(b) Provides that an open-enrollment charter school is entitled to funds that are available to school districts from the agency or the commissioner in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding.

(c) Provides that funding received by a charter holder under this section after September 1, 2001, are subject to certain restrictions.

(d) Requires a charter holder to deliver to the Texas Education Agency (agency) a copy of the depository contract between the charter holder and a bank into which state funds are deposited. Deletes text regarding an open-enrollment charter school.

Sec. 12.107. EFFECT OF ACCEPTING STATE FUNDING. (a) Provides that a charter holder who accepts state funds under Section 12.106 after the effective date of a provision of this subchapter agrees to be subject to that provision, regardless of the date on which the charter holder's charter was granted.

(b) Provides that a charter holder who accepts state funds under Section 12.106 after September 1, 2001, agrees to accept all liability under this subchapter for any funds accepted under that section before September 1, 2001. Provides that this subsection does not create liability for charter holder contract before September 1, 2001. Deletes existing text regarding LOCAL FUNDING.

Sec. 12.108. New heading: TUITION AND FEES RESTRICTED. (a) Deletes text regarding an exception as provided by Section 12.106. Makes a nonsubstantive change.

(b) Authorizes the governing body of an open-enrollment charter school to require a student to pay any fee that the board of trustees of a school district is authorized to charge under Section 11.158(a). Prohibits the governing body from requiring a student to pay a fee that the board of trustees of a school district is prohibited from charging under Section 11.158(b).

SECTION 12. Amends Sections 12.110(a)-(c), Education Code, as follows:

- (a) Requires the State Board of Education to adopt certain procedures and criteria.
- (b) Requires the application form for a charter or renewal of a charter to provide for certain information.
- (c) Authorizes the board, as part of the application procedure for a charter for a new open-enrollment charter school, to require a petition supporting the charter signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

SECTION 13. Amends Section 12.111, Education Code, to require each charter granted under this subchapter to meet certain criteria.

SECTION 14. Amends Section 12.113, Education Code, to provide that the grant of a charter under this subchapter does not create an entitlement to a renewal of a charter on the same terms as it was originally issued.

SECTION 15. Amends Section 12.114, Education Code, as follows:

- (b) Requires a charter holder to comply with Subsection (c) to obtain approval of a revision of the charter for an open-enrollment charter school if the revision authorizes the school to perform certain procedures.
- (c) Provides that for approval of a revision described by Subsection (b) certain conditions are required to be met.
- (d) Prohibits the State Board of Education, notwithstanding any other provision of this section, from approving a revision of the charter of open-enrollment charter school not rated as academically acceptable or higher under Chapter 39 for each of the preceding three school years that contains a revision described by Subsection (b)(1). Provides that this subsection expires September 1, 2003.

SECTION 16. Amends Section 12.115(a), Education Code, to authorize the State Board of Education to perform certain procedures if the board determines that the charter holder, rather than person operating the school meets certain conditions.

SECTION 17. Amends Section 12.116, Education Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Makes a conforming change.

(c) Provides that Chapter 2001 (Administrative Procedure), Government Code, does not apply to a hearing that is related to a modification, placement on probation, revocation, or denial of renewal under this subchapter.

SECTION 18. Amends Chapter 12D, Education Code, by adding Sections 12.1161 and 12.1162, as follows:

Sec. 12.1161. EFFECT OF REVOCATION, DENIAL OF RENEWAL, OR SURRENDER OF CHARTER. (a) Prohibits the school, except as provided by Subsection (b), if the State Board of Education revokes or denies the renewal of a charter of an open-enrollment charter school, or if an open-enrollment charter school surrenders its charter, from continuing to operate or receive state funds under this subchapter.

(b) Authorizes an open-enrollment charter school to continue to operate and receive state funds under this subchapter for the remainder of a school year if the board denies renewal of the school's charter before the completion of that school year.

Sec. 12.1162. EMERGENCY SUSPENSION. (a) Authorizes the commissioner to perform certain procedures to protect the health, safety, or welfare of the students enrolled at the school based on evidence that conditions at the school present a danger to the health, safety, or welfare of students.

(b) Prohibits the open-enrollment charter school, after the commissioner imposes a suspension under this section, from receiving funding and from resuming operating until the determination is made by the commissioner or the State Board of Education that certain conditions are met.

(c) Requires the commissioner, at a certain date, to provide an opportunity for a hearing to the holder of the charter of the open-enrollment charter school.

(d) Requires the State Board of Education, if the commissioner does not lift the suspension imposed under this section, to consider the suspension at the first regularly scheduled meeting of the board that occurs after the date the suspension is imposed. Requires at that meeting the board to lift the suspension or take action under Section 12.116.

(e) Sets forth that Chapter 2001, Government Code, does not apply to a suspension under this section.

SECTION 19. Amends Section 12.117, Education Code, as follows:

Sec. 12.117. New heading: ADMISSION. (a) Requires the governing body of the school, for admission to an open-enrollment charter school, to perform certain procedures.

(b) Authorizes an open-enrollment charter school to fill applications for admission under Subsections (a)(2)(B) only if the school published a notice of the opportunity to apply for admission to the school. Requires a notice published under this subsection to meet certain criteria.

SECTION 20. Amends Section 12.118, Education Code, by amending Subsections (a) and (c) and adding Subsections (d) and (e), as follows:

(a) Requires the State Board of Education, rather than board, to designate an impartial

organization with experience in evaluating school choice programs to conduct an annual evaluation of open enrollment-charter schools.

(c) Requires the evaluation of open-enrollment charter schools to also include an evaluation of certain information.

(d) Requires an evaluation of an open-enrollment charter school that assists students in earning a high school diploma or high school equivalency certificate to also include an evaluation of certain information.

(e) Provides that “student at risk of dropping out of school” has the meaning assigned by Section 29.081.

SECTION 21. Amends Chapter 12D, Education Code, by adding Sections 12.1181 and 12.1182, as follows:

Sec. 12.1181. STUDY OF CHARTER SCHOOL INNOVATION. (a) Requires the agency to study the instructional methods of open-enrollment charter schools to determine certain criteria.

(b) Requires the agency to include the results of the study conducted under this section in the report required under Section 39.182 that is due not later than December 1, 2002.

(c) Provides that this section expires January 31, 2003.

Sec. 12.1182. STUDY OF PROCEDURES FOR OBTAINING INFORMATION FROM CHARTER SCHOOLS. (a) Requires the agency to study the procedures by which the agency obtains information regarding the performance of open-enrollment charter schools, including certain other information.

(b) Requires the agency, in conducting the study, to perform certain procedures.

(c) Requires the agency to include the results of the study conducted under this section and the agency’s recommendations resulting from the study in the report required under Section 39.182 that is due not later than December 1, 2002.

(d) Provides that this section expires January 1, 2003.

SECTION 22. Amends Section 12.119(a), Education Code, to require a charter holder to file with the State Board of Education a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder, rather than entity, does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the board. Deletes text regarding entity. Makes a conforming and nonsubstantive change.

SECTION 23. Amends Section 12.120, Education Code, as follows:

Sec. 12.120. New heading: RESTRICTIONS ON SERVING AS MEMBER OF GOVERNING BODY OF CHARTER HOLDER, OFFICER, OR EMPLOYEE. (a) Prohibits a person from serving as a member of the governing body of a charter holder or as an officer or employee of an open-enrollment charter school if certain conditions exist.

(b) Provides that for purposes of Subsection (a)(2), a person has a substantial interest in a management company if the person meets certain conditions. Deletes text regarding serving as an officer or member.

SECTION 24. Amends Chapter 12D, Education Code, by adding Sections 12.121-12.1281, as follows:

Sec. 12.121. GENERAL POWERS AND DUTIES OF GOVERNING BODY OF SCHOOL. (a) Requires the governing body of an open-enrollment charter school as a body corporate to perform certain procedures.

(b) Prohibits the governing body of an open-enrollment charter school, except as provided by Section 12.111(9), from delegating the governing body's powers and duties under this subchapter to another person.

(c) Requires the governing body of an open-enrollment charter school to provide for appeals to the governing body or its designee concerning student expulsions.

Sec. 12.122. LIABILITY OF MEMBERS OF GOVERNING BODY OF CHARTER HOLDER AND MEMBER OF GOVERNING BODY OF SCHOOL. (a) Provides that notwithstanding the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.) or other law, a member of the governing body of a charter holder or a member of the governing body of an open-enrollment charter school is personally liable for certain criteria.

(b) Sets forth that if a charter holder receives state funds under Section 12.106 after September 1, 2001, a member of the governing body of the charter holder or a member of the governing body of the school who serves in that capacity after September 1, 2001, accepts the liability imposed by Subsection (a) as to any state funds accepted under Section 12.106 during the person's service on the governing body.

(c) Sets forth that in approving or agreeing to the use of state funds, a member of the governing body of a charter holder or a member of the governing body of an open-enrollment charter school is not liable under this section if the member relied in good faith on the advice of legal counsel that the use was authorized under Section 12.106(c)(3).

(d) Sets forth that a person held liable under this section is entitled to contribution from any other person who knowingly accepted or received funds in violation of this chapter, in proportion to the amount of funds accepted or received by that person.

Sec. 12.123. TRAINING FOR MEMBERS OF GOVERNING BODY OF SCHOOL AND OFFICERS. (a) Requires the State Board of Education to adopt rules prescribing training for certain persons.

(b) Requires rules adopted under Subsection (a) to meet certain specifications.

(c) Requires a person described by Subsection (a) to complete the minimum training required by rules adopted under Subsection (a).

(d) Requires the State Board of Education, if a person described by Subsection (a) does not complete the minimum training, to direct the charter holder to remove the person failing to complete the training or terminate that person's employment. Requires the board, if the person is not removed or the person's employment is not terminated, to place on probation or revoke the school's charter as provided by Sections 12.115 and 12.116.

Sec. 12.124. LOANS FROM MANAGEMENT COMPANY PROHIBITED. (a) Prohibits the charter holder or the governing body of an open-enrollment charter school from accepting a

loan from a management company that has a contract to provide management services to certain charter schools.

(b) Prohibits a charter holder or the governing body of an open-enrollment charter school that accepts a loan from a management company from entering into a contract with that management company to provide management services to the school.

Sec. 12.125. APPROVAL OF MANAGEMENT CONTRACT. (a) Requires the open-enrollment charter school to submit to the commissioner for approval any proposed contract, including a contract renewal, between the school and a management company proposing to provide management services to the school. Prohibits the contract from taking effect until approved by the commissioner.

(b) Requires the commissioner to adopt criteria to use in determining whether to approve a contract submitted under this section. Provides that the criteria must require a management company to demonstrate that the company has achieved certain conditions.

(c) Provides that as provided by Section 12.107, if a charter holder receives state funds under Section 12.106 after September 1, 2001, a contract to provide management services to an open-enrollment charter school for the 2001-2002 or a later year that was executed before September 1, 2001, has no effect for the 2001-2002 or a later school year unless the contract is approved as provided by this section.

(d) Authorizes the commissioner to deny approval of, or deny renewal of, suspend, or revoke a contract if the management company meets certain conditions.

(e) Requires the commissioner to adopt rules to administer this section.

(f) Provides that a management contract approved by the commissioner under this section is not assignable.

Sec. 12.126. LIABILITY OF MANAGEMENT COMPANY. (a) Sets forth that a management company that provides management services to an open-enrollment charter school is liable for damages incurred by the state or an affected school district as a result of the failure of the company to comply with its contractual or other legal obligation to provide services to the school.

(b) Authorizes the attorney general, on request of the State Board of Education, to bring suit on behalf of the state or any affected school district against a management company liable under Subsection (a) for certain damages.

(c) Authorizes an affected school district, with the approval of the attorney general, to participate in a suit brought by the attorney general under Subsection (b). Provides that an affected school district is not entitled to bring suit on its own behalf against a management company liable under Subsection (a).

(d) Sets forth that this section is cumulative of all other remedies and does not affect certain liabilities.

Sec. 12.127. PROPERTY PURCHASED OR LEASED WITH STATE FUNDS. (a) Provides that property purchased or leased with funds received by a charter holder under Section 12.106 after September 1, 2001 meets certain criteria.

(b) Provides that if at least 50 percent of the funds used by a charter holder to purchase

real property are funds received under Section 12.106 before September 1, 2001, the property is considered to be public property to the extent it was purchased with those funds.

(c) Requires the commissioner to perform certain procedures.

(d) Authorizes the commissioner to adopt rules necessary to administer this section.

(e) Provides that this section does not affect a security interest in or lien on property established by a creditor in compliance with law if the security interest or lien arose in connection with the sale or lease of the property to the charter holder.

Sec. 12.128. MINIMUM TEACHER QUALIFICATIONS. (a) Requires a person employed as a teacher by an open-enrollment charter school to hold a high school diploma or high school equivalency certificate.

(b) Provides that unless otherwise approved by the commissioner, a person employed as a teacher by an open-enrollment charter school and assigned to teach a subject in the foundation curriculum under Section 28.002(a)(1) is required to hold a certain degree or certificate.

Sec. 12.1281. EXCEPTION TO MINIMUM TEACHER QUALIFICATIONS. (a) Provides that a person employed as a teacher by an open-enrollment charter school during the 2000-2001 school year, notwithstanding Section 12.128(b), is not required to hold a bachelor's or more advanced degree for employment as a teacher by an open-enrollment charter school to teach a subject in the foundation curriculum under Section 28.002(a)(1) if certain conditions exist.

(b) Provides that this section expires July 1, 2007.

SECTION 25. Amends Section 22.083, Education Code, as follows:

(a) Deletes text regarding open enrollment charter school.

(b) Requires an open enrollment charter school to obtain from any law enforcement or criminal justice agency all criminal history record information that relates to certain conditions.

(c) Authorizes an open-enrollment charter school to obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a certain person.

SECTION 26. Amends Section 25.088, Education Code, to authorize the attendance officer to be selected by the governing body of an open-enrollment charter school.

SECTION 27. Amends Section 25.089(a), Education Code, to authorize an attendance officer to be compensated from the funds of the county, independent school district, or open-enrollment charter school, as applicable.

SECTION 28. Amends Section 25.090, Education Code, as follows:

(b) Requires the duties of the attendance officer, if the governing body of an open-enrollment charter school has not selected an attendance officer, to be performed by the peace officers of the county in which the school is located.

(c) Prohibits additional compensation from being paid for services performed under this section.

SECTION 29. Amends Sections 25.093(f) and (g), Education Code, as follows:

(f) Requires a fine collected under this section to be deposited to certain areas.

(g) Authorizes the attendance records of the child, at the trial of any person charged with violating this section, to be presented in court by any authorized employee of the school district or open-enrollment charter school, as applicable.

SECTION 30. Amends Section 25.095(a), Education Code, to make a conforming change.

SECTION 31. Amends Section 39.075(a), Education Code, to require the commissioner to authorize special accreditation investigations to be conducted under certain circumstances.

SECTION 32. Amends Chapter 46A, Education Code, by adding Section 46.012, as follows:

Sec. 46.012. **APPLICABILITY TO OPEN-ENROLLMENT CHARTER SCHOOLS.** Sets forth that an open-enrollment charter school is not entitled to an allotment under this subchapter.

SECTION 33. Amends Chapter 46B, Education Code, by adding Section 46.036, to make a conforming change.

SECTION 34. Amends Section 411.097, Government Code, by amending Subsections (c) and (d) and adding Subsection (e), as follows:

(c) Provides that an open-enrollment charter school is entitled to obtain from the department criminal history record information maintained by the department that the school is required to obtain under Chapter 22C (Criminal History Records), Education Code, that relates to certain persons.

(d) Makes a conforming change.

SECTION 35. Amends Section 140.005, Local Government Code, to require the governing body of a school district, open-enrollment charter school, junior college district, or a district or authority organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, to prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year certain information.

SECTION 36. Amends Sections 140.006(c) and (d), Local Government Code, as follows:

(c) Requires the presiding officer of a school district or open-enrollment charter school to submit a financial statement prepared under Section 140.005 to a daily, weekly, or biweekly newspaper published within the boundaries of the district or the geographical area served by the charter school. Requires the financial statement, if a daily, weekly, or biweekly newspaper is not published within the boundaries of the school district, to be published in the manner provided by Subsections (a) and (b). Requires the financial statement, if a daily, weekly, or biweekly newspaper is not published within the area served by the charter school, to be published in a newspaper that has general circulation in the area served by the charter school.

(d) Requires a statement to be published not later than two months after the date the fiscal year ends, except that a school district's or charter school's statement to be published not later than the 120th day after the date the fiscal year ends and in accordance with the accounting method required by the Texas Education Agency, rather than the Texas Central Education Agency.

SECTION 37. (a) Requires the Texas Education Agency to undertake certain investigations.

(b) Requires the Texas Education Agency, not later than January 1, 2002, to report any violations to the State Board of Education, and that board to take appropriate action.

SECTION 38. Requires the State Board of Education, not later than January 1, 2002, to adopt rules relating to certain criteria.

SECTION 39. Requires the commissioner of education, not later than November 1, 2001, to adopt certain criteria.

SECTION 40. (a) Requires an open-enrollment charter school, beginning September 1, 2001, to obtain criminal record information relating to certain information.

(b) Requires an open-enrollment charter school, not later than January 1, 2002, to obtain all criminal history record information relating to certain information.

SECTION 41. Requires an open-enrollment charter school in existence on September 1, 2001, to not later than September 1, 2002, fulfill the requirements of Sections 203.025, 203.026, and 203.041, Local Government Code.

SECTION 42. (a) Sets forth that the change in law made by Sections 12.106 and 12.107, Education Code, as amended by this Act, apply beginning with the 2003-2004 school year.

(b) Provides that the change in law made by Section 12.114, Education Code, as amended by this Act, applies to a revision proposed by an open-enrollment charter school that has not been approved by the State Board of Education before September 1, 2001, regardless of the date on which the school proposed the revision.

(c) Provides that the change in law made by Section 12.126, Education Code, as added by this Act, applies to a cause of action that accrues on or after September 1, 2001. Provides that a cause of action that accrued before September 1, 2001, is governed by the law in effect at the time the cause of action accrued, and that law is continued in effect for that purpose.

SECTION 43. Effective date: September 1, 2001.