



State of Tennessee
PUBLIC CHAPTER NO. 466

HOUSE BILL NO. 1989

By Representatives McCormick, White, Sparks

Substituted for: Senate Bill No. 1523

By Senators Norris, Woodson, Kelsey, Summerville

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 13, relative to charter schools.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-13-104(2), is amended by adding the language "or the achievement school district as defined in § 49-1-614" after the word "education".

SECTION 2. Tennessee Code Annotated, Section 49-13-106, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a)

(1) Public charter schools authorized by an LEA may be formed to provide quality educational options for all students residing within the jurisdiction of the chartering authority; provided, however, an LEA may authorize charters to enroll students residing outside the LEA in which the public charter school is located pursuant to the LEA out-of-district enrollment policy and in compliance with § 49-6-3003 and § 49-6-403(f).

(2) The achievement school district may authorize charter schools within the jurisdiction of the LEA for the purpose of providing opportunities for students within the LEA who are zoned to attend or enrolled in a school that is eligible to be placed in the achievement school district. For the purposes of this subdivision (a)(2), students shall not be considered "zoned" for a school that is open to all students within the LEA unless they are assigned to the school based on the LEA's geographic zoning policies.

SECTION 3. Tennessee Code Annotated, Section 49-13-106(b)(1)(A), is amended by deleting the language "local board of education" and by substituting instead the language "chartering authority".

SECTION 4. Tennessee Code Annotated, Section 49-13-106, is amended by deleting subdivision (b)(1)(C) in its entirety and by substituting instead the following:

(b)

(1)

(C) In reviewing applications for newly created charter schools, the chartering authority, if an LEA, shall give preference to, and, if the achievement school district, shall exclusively accept, applications that demonstrate the capability to meet the needs of the following groups of students:

(i) Students who are assigned to, or were previously enrolled in, a school failing to make adequate yearly progress, as defined by the state's accountability system;

(ii) Students who, in the previous school year, failed to test proficient in the subjects of reading/language arts or mathematics in grades three (3) through eight (8) on the Tennessee comprehensive assessment program examinations;

(iii) Students who, in the previous school year, failed to test proficient in the subjects of reading/language arts or mathematics on the end of course assessments in grades nine (9) through twelve (12); or

(iv) Students who are eligible for free or reduced price lunch.

(D) If an application with the focus of serving students from a group or groups set forth in subdivision (b)(1)(C) is approved, then the school shall give preference in enrollment to students from such group or groups. Such school shall include in the annual report under § 49-13-120 the number of students from such group or groups who are attending the school.

SECTION 5. Tennessee Code Annotated, Section 49-13-106(b)(2)(B), is amended by deleting the first sentence of the subdivision and by substituting instead the following language: An LEA may convert an eligible public school to a public charter school.

SECTION 6. Tennessee Code Annotated, Section 49-13-106, is amended by deleting subdivisions (b)(2)(D) and (b)(2)(E) in their entireties.

SECTION 7. Tennessee Code Annotated, Section 49-13-107, is amended by deleting the language "local board of education" wherever it appears and by substituting instead the language "chartering authority".

SECTION 8. Tennessee Code Annotated, Section 49-13-108, is amended by deleting the language "This section shall apply only to applications for new charter schools under § 49-13-106(b)(1)" and by substituting instead the language "This section shall apply only to applications for new charter schools under § 49-13-106(b)(1) when the LEA is the chartering authority".

SECTION 9. Tennessee Code Annotated, Section 49-13-108(2), is amended by deleting the first sentence.

SECTION 10. Tennessee Code Annotated, Section 49-13-108(3), is amended by deleting the language "If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district or community, the state board shall remand the decision to the local board of education with written instructions for approval of the charter" and by substituting instead the following:

If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district or community, the state board shall remand the decision to the local board of education with written instructions for approval of the charter. The grounds upon which the state board of education based a decision to remand the application shall be stated in writing, specifying objective reasons for the decision.

SECTION 11. Tennessee Code Annotated Section 49-13-108 is amended by adding the following language as a new subdivision (4):

(4)

(A) Prior to approving or denying a charter school's application, the local board of education may consider whether the establishment of the charter school will have a substantial negative fiscal impact on the LEA such that authorization of the charter school would be contrary to the best interests of the pupils, school district or community. If the local board of education denies an initial application in whole or in part for this reason, the local board of education shall provide the following supporting documentation to the sponsor:

(i) Current student enrollment figures in the LEA and an estimate of the number of students currently enrolled who will transfer to the charter school seeking authorization;

(ii) An estimate, based on prior years' data, of the number of students who will no longer be enrolled in the LEA during the school year in which the charter school seeks to begin operation for reasons other than a transfer to the charter school;

(iii) A projection of the LEA's student enrollment for the school year in which the charter school seeks to begin operation, excluding the estimated number of students who will transfer to the charter school seeking authorization. Such projection shall include estimates, using prior years' data, of increased revenue to the LEA from first-time enrollees or transferees into the district; and

(iv) Specific facts or financial information and a written statement demonstrating how placement or transfer of students to a charter school within the LEA will impose a budgetary or financial burden on the LEA beyond that associated with normal enrollment fluctuations, including an objective analysis of the LEA's ability to adjust expenses on a systemwide basis due to the estimated numbers and anticipated placement of students who will transfer to the charter school seeking authorization.

(B) If the local board of education denies an amended charter school application because of a substantial negative fiscal impact, the local board of education shall provide the supporting documentation identified in subdivision (4)(A) to the state treasurer within five (5) days of the local board's denial of the amended application. The sponsor may submit a response and supporting documentation to the treasurer within five (5) days of the local board's denial of the amended application. The treasurer shall review the supporting documentation and written statement submitted by the local board of education and the response and supporting documentation of the sponsor to determine the reasonableness of the denial based on substantial negative fiscal impact. The treasurer may consult with the department of education in the review and may request additional information from the local board of education, the sponsor and the department to assist in the review. As soon as practicable after receipt of all requested documentation and expert reports or both, but in no case greater than thirty (30) days, the treasurer shall make a determination as to the reasonableness of the denial based on substantial negative fiscal impact. If the treasurer determines it is necessary or appropriate, the treasurer is authorized to engage experts to assist the treasurer in this process.

(C) If the treasurer determines that the information provided by the local board of education reasonably demonstrates that establishment of the charter school shall have a substantial negative fiscal impact on the LEA such that authorization of the charter school would be contrary to the best interests of the pupils, school district or community, the sponsor may not appeal the denial to the state board of education.

(D) If the treasurer determines that the information provided by the local board of education does not reasonably demonstrate that establishment of the charter school shall have a substantial negative fiscal impact on the LEA such that authorization of the charter school would be contrary to the best interests of the pupils, school district or community, the sponsor may appeal the denial by the local board of education to the state board of education, pursuant to subdivision (3) of this section. However, the sponsor shall request this appeal within five (5) days of the final decision by the treasurer.

(E) The comptroller of the treasury may develop standards relative to this subdivision (4) of this section.

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(F) No part of this subdivision (4) shall be subject to the Uniform Administrative Procedures Act compiled in title 4, chapter 5.

SECTION 12. Tennessee Code Annotated, Section 49-13-109, is amended by deleting the section in its entirety.

SECTION 13. Tennessee Code Annotated, Section 49-13-113, is amended by deleting subdivisions (d)(1) and (d)(4) in their entireties, by deleting in subdivision (d)(2) the words "subsection (d)" and by substituting instead the word "section".

SECTION 14. Tennessee Code Annotated, Section 49-13-122(a)(2), is amended by adding the language "for two (2) consecutive years" after the word "system" and before the punctuation ";".

SECTION 15. Tennessee Code Annotated, Section 49-13-122, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) A decision not to renew or to revoke a charter agreement may be appealed to the state board of education within ten (10) days of the decision, except for revocations or failures to renew based on the violations specified in subdivision (a)(2). State board appeals shall be handled on the same basis as provided in § 49-13-108. This section shall apply only to decisions not to renew or to revoke a charter agreement where the LEA is the chartering authority.

SECTION 16. Tennessee Code Annotated, Section 49-13-126 is amended by designating the current language as subsection (a) and by adding the following as a new subsection (b):

(b) Notwithstanding any other provision of this chapter to the contrary, the commissioner shall establish rules and procedures for the authorization of charter schools by the achievement school district pursuant to this chapter.

SECTION 17. Tennessee Code Annotated, Section 49-13-130, is amended by deleting the section in its entirety.

SECTION 18. Tennessee Code Annotated, Section 49-13-132, is amended by deleting the section in its entirety.

SECTION 19. This act shall take effect upon becoming a law, the public welfare requiring it.

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PASSED: May 20, 2011



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 10th day of June 2011



BILL HASLAM, GOVERNOR