

HOUSE BILL 1104

By Hill T

AN ACT to amend Tennessee Code Annotated, Title 49,  
Chapter 2, to enact the "Home-Rule LEA Act."

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

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 2, is amended by adding the following language as a new part:

**49-2-801.** This part shall be known and may be cited as the "Home-Rule LEA Act."

**49-2-802.** It is the intent of the general assembly to allow local boards of education greater control and governing authority over their school districts.

**49-2-803.** As used in this part:

- (1) "Commissioner" means the commissioner of education;
- (2) "Department" means the department of education;
- (3) "Home-rule LEA" means a local education agency that results from the conversion of a traditional local education agency under this part;
- (4) "Local education agency" or "LEA" means any county, city, or special school district;
- (5) "State board" means the state board of education;
- (6) "TCAP" means the Tennessee comprehensive assessment program; and
- (7) "Traditional LEA" means a local education agency that has not converted into a home-rule LEA under this part.

**49-2-804.**

(a) Except as provided in subsection (b), county school systems or city school systems shall be eligible to convert to a home-rule LEA under this part.

(b) The following school systems shall not be eligible to convert to a home-rule LEA:

(1) The achievement school district; and

(2) LEAs with one (1) or more schools identified as priority schools under § 49-1-602.

(c) The conversion of a county LEA, city LEA, or special school district to a home-rule LEA shall not alter the boundaries of the LEA. The LEA shall continue to educate any student residing within its boundaries who is in the grades served by the LEA and who is enrolled by a parent or guardian in the LEA.

(d) The local board of education of an LEA converting to a home-rule LEA shall be the governing body of the home-rule LEA. The local board shall continue to be elected according to § 49-2-201, and all qualifications of § 49-2-202 for membership on the board shall apply. The local board of a home-rule LEA shall have all rights, powers, duties, and responsibilities of local boards that govern traditional LEAs.

**49-2-805.**

An eligible LEA may elect to become a home-rule LEA, if the LEA, in three (3) successive years, culminating with the year prior to which the LEA seeks to become a home-rule LEA, is meeting or exceeding the state average on academic and other standards. These standards shall include:

(1) Tennessee comprehensive assessment program (TCAP) test scores for grades three through eight (3-8);

(2) End-of-course scores, if applicable to the LEA;

(3) Attendance rates;

(4) Dropout rates; and

(5) Graduation rates, if applicable to the LEA.

**49-2-806.**

Before an eligible LEA may convert to a home-rule LEA:

(1) The local board of education shall adopt by an affirmative vote of two-thirds (2/3) of the members of the board a resolution to create a charter commission; or

(2) Voters registered to vote in local school board elections shall present a petition to the local governing body signed by at least ten percent (10%) of the registered voters, requesting that the local board of education and local governing body establish a charter commission to convert the LEA to a home-rule LEA.

**49-2-807.**

(a) A charter commission shall be created for any eligible LEA seeking to become a home-rule LEA. The commission shall propose a charter that governs the home-rule LEA to be adopted by the voters.

(b) The charter commission shall be composed of thirteen (13) members as follows:

(1) The chair of the local board of education shall serve as a voting, ex officio member;

(2) The director of schools of the LEA shall serve as a voting, ex officio member;

(3) The county mayor, if the LEA is a county school system or the city mayor, if the LEA is a city school system, shall serve as a voting, ex officio member. This subdivision (b)(3) shall not apply to special school districts;

(4) The local board of education shall elect two (2) of its members, other than the chair, to serve on the commission;

(5) The local governing body shall elect two (2) of its members, who are not otherwise members of the commission, to serve on the commission. This subdivision (b)(5) shall not apply to special school districts;

(6) The chair of the local board of education shall appoint:

(A) A teacher who is employed by the LEA;

(B) A principal of a school operated by the LEA; and

(C) A parent of a student presently enrolled in the LEA; and

(7) The chair of the local governing body, or the chair of the local board of education, if the LEA is a special school district, shall appoint three (3) members of the public who reside within the LEA.

(c)

(1) A vacancy in an appointed member's position on the charter commission shall be filled by the authority appointing the person who formerly held the vacated position.

(2) All appointments to the charter commission shall be made within thirty (30) days of the adoption of a resolution under § 49-2-806(1) to create a charter commission by the local board of education or within thirty (30) days of the presentation of a petition by the voters under § 49-2-806(2) to the local governing body.

(d)

(1) The chair of the local board of education shall call the first meeting of the charter commission within thirty (30) days after the appointment of the last member to the charter commission. At the first meeting, the charter commission shall elect a chair, a secretary, and such other officers as it deems necessary.

(2) Future meetings of the charter commission shall be held at times and places as it may determine, with special or additional meetings to be held upon call of its chair.

(3) The meetings of the charter commission shall comply with the requirements of title 8, chapter 44, part 1, concerning open meetings.

(e)

(1) Members of the charter commission shall not receive per diem or other compensation for their services.

(2) Necessary expenses of the charter commission shall be paid from funds made available by the LEA for this purpose, as approved by the local governing body.

(f) The local board of education may assist the commission in drafting the charter by assigning its employees to help with clerical or technical tasks.

**49-2-808.**

(a) The charter commission shall develop a charter to govern the home-rule LEA. The charter shall:

(1) State the mission and goals of the proposed home-rule LEA;

(2) Describe additional rights, powers, duties, and responsibilities of the local board of education;

(3) Describe the duties and responsibilities of the director of schools;

(4) Describe the academic plan for the home-rule LEA, including instructional goals and the educational programs to be offered;

(5) Describe the teaching and classroom instructional methods that shall be used to equip students with the knowledge, proficiency, and skills needed to reach the instructional goals;

(6) Describe the plan for evaluating student academic achievement and determining whether a school is making progress towards achieving the goals outlined in the charter, and a plan for remediation, if a student's academic achievement falls below acceptable standards;

(7) Describe how the LEA shall comply with health and safety requirements;

(8) State that the continuation of the charter is contingent upon acceptable student performance and, at a minimum, compliance with the state's accountability provisions;

(9) State that the home-rule charter may be revoked by the state board of education upon recommendation of the commissioner of education, if the home-rule LEA does not continue to meet or exceed the academic requirements under § 49-2-805 or fails to comply with a law or a rule of the state board; and

(10) Meet any other requirements for a home-rule LEA charter as required by the state board by rule.

(b) Before presentation of any proposed charter to the commissioner of education as required by § 49-2-809, the charter commission shall conduct at least three (3) public hearings at which the public may ask questions and comment on the charter. The meetings shall be conducted in the LEA's schools and, to the extent possible, in different areas of the LEA. The commission may revise the charter based on the public's questions and comments at the hearings.

(c) The charter commission shall set a period of time of no less than thirty (30) days in which written comments may be submitted to the commission. The commission may revise the proposed charter based on the public's written comments.

(d) At least three (3) copies of the proposed charter shall be available in the office of each school in the LEA and at the LEA's central administrative office. Copies shall be available at least two (2) weeks prior to the first hearing to be conducted by the charter commission. A summary of the content of the proposed charter shall be attached to each copy. The proposed charter and its summary shall also be posted on the LEA's website.

**49-2-809.**

(a) Within one (1) year of the date of its first meeting, the charter commission shall submit the proposed charter to the commissioner of education for review. As soon as practicable, but not later than thirty (30) days after the date the commissioner receives the proposed charter, the commissioner shall review the proposed charter to ensure that it complies with all applicable laws and rules of the state board. The commissioner may recommend modifications, which the commissioner finds to be needed, to the charter commission. The charter commission may revise the proposed charter based on the commissioner's recommendations.

(b) If the charter commission fails to propose a charter for the conversion of the LEA to a home-rule LEA within one (1) year of the date of its first meeting, then a home-rule LEA shall not be formed. If the charter commission fails to propose a charter, then no attempt to convert the LEA to a home-rule LEA may be commenced until two (2) years after the date of the first meeting of the charter commission.

**49-2-810.**

(a) The charter commission shall present the proposed charter to the local governing body for approval by ordinance or resolution. If the local governing body does not approve the proposed charter by a two-thirds (2/3) majority vote of its members within thirty (30) days after it is presented, then a home-rule LEA shall not be formed.

This subsection (a) shall not apply to home-rule LEAs that were formerly special school districts.

(b) The charter commission shall present the proposed charter to the local board of education for approval by resolution. If the local board does not approve the proposed charter by a two-thirds (2/3) majority vote of its members within thirty (30) days after it is presented, then a home-rule LEA shall not be formed.

(c) If either the local governing body or the local board of education fails to approve the proposed charter, then no attempt to convert the LEA to a home-rule LEA may be commenced until two (2) years after the date of the first meeting of the charter commission whose proposed charter was not approved.

**49-2-811.**

(a) If the local governing body and the local board of education approve the proposed charter, then an election shall be called on the question of whether the LEA shall become a home-rule LEA under the proposed charter.

(b) The local governing body or the local board of education if the home-rule LEA was formerly a special school district, by resolution or ordinance, shall request that the county election commission hold an election on the question of whether the LEA shall be converted to a home-rule LEA under the proposed charter at the next regular August election for which there is time for the question to be placed on the ballot. The LEA shall not be converted to a home-rule LEA unless the proposed charter is approved in an election in the county, city, or special school district, as the case may be. The county election commission shall hold an election on the question pursuant to § 2-3-204, providing options to vote "FOR" or "AGAINST" the conversion of the LEA to a home-rule LEA under the proposed charter, after the receipt of a certified copy of the ordinance or resolution requesting the election on the question. A majority vote of those voting in the

election shall determine whether the LEA shall be converted to a home-rule LEA. Voters shall be eligible to vote in the election on the question if they are eligible to vote in elections for members of the local board of education of the LEA.

(c) If the majority vote is for the conversion of the LEA to a home-rule LEA under the proposed charter, then the LEA may proceed with the conversion after the date that the county election commission makes its official canvass of the election returns. If the majority vote is against the conversion of the LEA to a home-rule LEA, then no attempt to convert the LEA to a home-rule LEA shall be made by the local board of education, and the local governing body shall not accept any petition for conversion of the LEA to a home-rule LEA for at least two (2) years from the date the election is conducted.

**49-2-812.**

(a) If the majority of the voters elect to convert the LEA to a home-rule LEA, then the LEA shall be restructured and operations shall commence as a home-rule LEA at the start of the school year two (2) calendar years after the election.

(b) The state board, in consultation with the department, shall promulgate rules to facilitate the conversion of an LEA to a home-rule LEA.

**49-2-813.**

A home-rule LEA shall have greater authority and control over its operation than a traditional LEA; provided, that the home-rule LEA's operational policies or guidelines meet or exceed those required under federal or state law, rule, or regulation concerning student or school accountability. Areas in which a home-rule LEA may be given greater authority and control include, but are not limited to:

(1) Academic standards; provided, that the academic standards adopted are as rigorous as or more rigorous than those adopted by the state board of education;

(2) Curricula for its academic standards;

(3) Textbook selection;

(4) Choice of assessments for student performance; provided, that the assessments are as rigorous as or more rigorous than the TCAPs or end-of-course exams and are aligned with the LEA's standards, including any nationally standardized norm-referenced achievement tests;

(5)

(A) Evaluations of teachers, principals, and other LEA professional personnel; provided, that, the evaluation criteria meet or exceed the criteria specified in § 49-1-302(d);

(B) If a home-rule LEA opts to evaluate teachers, principals, and other LEA professional personnel in a manner outside that provided in § 49-1-302(d), then the LEA shall submit the proposed evaluation criteria to the state board and if the state board approves the home-rule LEA evaluations, then the teachers shall still qualify for tenure pursuant to chapter 5, part 5 of this title. If the teacher evaluated pursuant to this subdivision (5)(B) moves to another LEA, then the teacher shall be subject to the probation requirements pursuant to § 49-5-504;

(6) Policies for student discipline;

(7) Reorganization of its schools by grades, learning styles, academic focus, or other methods; and

(8) The school calendar and times for instruction; provided, that the LEA shall require at least the minimum number of days and hours of instruction pursuant to § 49-6-3004 and the rules of the state board.

**49-2-814.**

Except when waivers are otherwise prohibited in this chapter, the home-rule LEA may apply to the commissioner of education for a waiver of any state board rule or statute that inhibits or hinders the proposed home-rule LEA's ability to meet its goals or comply with its mission statement. The commissioner shall not waive regulatory or statutory requirements related to:

- (1) Federal and state civil rights;
- (2) Federal, state, and local health and safety;
- (3) Federal and state public records;
- (4) Immunizations;
- (5) Possession of weapons on school grounds;
- (6) Background checks and fingerprinting of personnel;
- (7) Federal and state special education services;
- (8) Student due process;
- (9) Parental rights;
- (10) Federal and state student assessment and accountability;
- (11) Open meetings;
- (12) At least the same equivalent time of instruction as required in the public schools of traditional LEAs;
- (13) Educators' due process rights;
- (14) Reductions in teachers' salaries;
- (15) Employee rights, salaries, and benefits; and
- (16) Licensure of employees.

**49-2-815.** Conversion of an LEA to a home-rule LEA shall not alter funding for the LEA under chapter 3, part 3 of this title, in any manner. If a county LEA converts to a home-rule LEA, then the county governing body shall remain responsible for funding the local share of the

basic education program (BEP), providing funds under the maintenance of effort provisions of the BEP, and otherwise providing local funds for the LEA. If a city LEA converts to a home-rule LEA, then the city governing body shall remain responsible for funding the local share of the BEP, providing funds under the maintenance of effort provisions of the BEP, and otherwise providing local funds for the LEA. If a special school district converts to a home-rule LEA, then the funding of the special school district shall be provided by private act and general law.

**49-2-816.** Bond indebtedness incurred by the LEA or the local governing body for the LEA before conversion to a home-rule LEA shall remain a liability of the LEA or the local governing body, respectively, after the conversion.

**49-2-817.** The local board of education shall cause an annual audit to be performed of the accounts and records of the home-rule LEA and the schools under its jurisdiction. Audits of the home-rule LEA shall be performed periodically by the comptroller of the treasury and the department of education pursuant to § 49-2-112 to determine if the home-rule LEA is complying with its charter and with federal and state student assessment and accountability requirements.

**49-2-818.**

(a) The state board of education, upon the recommendation of the commissioner, may revoke a home-rule LEA charter if the state board determines, after providing the home-rule LEA with written notice of a violation of subdivisions (a)(1)-(5) and one (1) year to remedy the violation, that the home-rule LEA:

(1) Committed a material violation of the charter;

(2) Failed to meet the minimum performance requirements set forth in the charter;

(3) Failed to comply with any rules promulgated by the state board concerning home-rule LEAs;

(4) Failed to satisfy generally accepted accounting standards of fiscal management; or

(5) Failed to comply with this part or other applicable federal or state laws or rules.

(b) A home-rule LEA charter shall be revoked by the state board if an LEA school receives identification as a priority school, as defined by the state's accountability system pursuant to § 49-1-602 for 2020 or any year thereafter.

(c) If the state board revokes a home-rule LEA charter, then the state board shall state the reasons for the revocation.

(d) The decision of the state board to revoke the charter of a home-rule LEA shall be final.

(e) The state board shall promulgate rules to govern the transition of a home-rule LEA whose charter has been revoked under this section or rescinded under § 49-2-819 to a traditional LEA.

**49-2-819.**

(a) If the local board of education of a home-rule LEA or its local governing body, if applicable, by a two-thirds (2/3) majority vote of its members, votes to rescind the charter of the home-rule LEA, then an election on the question of the rescission of the home-rule charter of the LEA shall be conducted, in a manner similar to § 49-2-811, and, if a majority of the voters voting in the election vote to rescind the charter, then the home-rule LEA shall be dissolved.

(b) The registered voters of a home-rule LEA may submit a petition to rescind the charter to the local governing body. If at least ten percent (10%) of the registered voters sign the petition, then an election on the question of the rescission of the home-rule charter of the LEA shall be conducted, in a manner similar to § 49-2-811, and, if a

majority of the voters voting in the election vote to rescind the charter, then the home-rule LEA shall be dissolved.

SECTION 2. The state board of education is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2020, the public welfare requiring it.