

HOUSE BILL 2146

By Harwell

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, is amended by deleting subdivisions (1) and (2) in their entirety and by substituting instead the following language:

(1) "Charter agreement" means a performance-based agreement between the sponsor of a public charter school and the chartering authority, the terms of which are approved by the chartering authority for an initial period of ten (10) years;

(2) "Chartering authority" means the state board of education or the local board of education which approves, renews or decides not to revoke a public charter school application or agreement;

SECTION 2. Tennessee Code Annotated, Section 49-13-105(b), is amended by deleting the following language:

Except where waivers are otherwise prohibited in this chapter, the sponsor of a proposed public charter school may apply to either the LEA or to the commissioner of education for a waiver of any state board rule or statute that inhibits or hinders the proposed charter school's ability to meet its goals or comply with its mission statement. Neither the LEA nor the commissioner shall waive regulatory or statutory requirements related to:

and by substituting instead the following language:

Except where waivers are otherwise prohibited in this chapter, the sponsor of a proposed public charter school may apply to either the LEA or to the commissioner of education, if the chartering authority is the local board of education, or to the state board

of education, if the chartering authority is the state board, for a waiver of any state board rule or statute that inhibits or hinders the proposed charter school's ability to meet its goals or comply with its mission statement. No regulatory or statutory requirements shall be waived that are related to:

SECTION 3. Tennessee Code Annotated, Section 49-13-106, is amended by deleting subsections (a) and (b) in their entireties and by substituting instead the following language:

(a) Public charter schools may be formed to provide quality educational options for students. The prospective student population shall be:

(1) Students who are qualified under the laws of this state for admission to public school; or

(2) Students who are under the jurisdiction of a juvenile court and who, in the court's judgment, would benefit from a work experience and career exploration program. The proposed public charter school shall, in addition to complying with the application requirements of § 49-13-107, apply to the commissioner of education for approval of its proposed work experience and career exploration program.

(b) A public charter school may be formed by creating a new school or converting a public school to charter status pursuant to this chapter.

(1) Newly created public charter schools:

(A) The sponsor of a public charter school shall file a public charter school application with the chartering authority on or before October 1 of the year preceding the year in which the proposed public charter school plans to begin operation.

(B) Upon approval of a charter application, the sponsor shall authorize a governing body to operate the public charter school. A public

charter school shall be operated by a not-for-profit organization with exemption from federal taxation under § 501(c)(3) of the Internal Revenue Code. No charter shall be granted to a for-profit corporation.

(2) Conversion of public schools to charter status:

(A) A public school may convert to a public charter school pursuant to this chapter if the parents of sixty percent (60%) of the children enrolled at the school or sixty percent (60%) of the teachers assigned to the school agree and demonstrate support by signing a petition seeking conversion and the local board of education or the state board of education agrees to the conversion. The percentage of parents signing a petition shall be calculated on the basis of one (1) vote for each child enrolled in the school. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty.

(B) An LEA may convert a public school to a public charter school. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty.

(C)

(i) The conversion shall occur at the beginning of an academic school year and shall be subject to compliance with this chapter.

(ii) At the time of conversion to a charter school, any teacher or administrator in the charter school shall be allowed to transfer into vacant positions for which they are certified in other schools in the school system prior to the hiring of new personnel

for those positions. Such personnel who transfer into vacant positions in other schools in the school system shall suffer no impairment, interruption, or diminution of the rights and privileges of a then existing teacher or administrator, and such rights and privileges shall continue without impairment, interruption or diminution with the local board of education. "Rights and privileges," as used in this subdivision (b)(2)(C)(ii), include, but are not limited to, salary, pension or retirement benefits, sick leave accumulation, tenure, seniority, and contract rights with the local board of education. The director of schools shall have the option to specifically assign these teachers or administrators to those vacant positions.

SECTION 4. 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 5. Tennessee Code Annotated, Section 49-13-108, is amended by deleting the section in its entirety and by substituting instead the following language:

This section shall apply only to applications for new charter schools under § 49-6-106(b)(1).

(1) The chartering authority shall have the authority to approve applications to establish public charter schools and renew public charter school agreements. The chartering authority shall rule by resolution, at a regular or special called meeting, on the approval or denial of a charter application within sixty (60) days of receipt of the completed application. Should the chartering

authority fail to either approve or deny a charter application within the sixty (60) day time limit herein prescribed, such application shall be deemed approved.

(2) The grounds upon which the chartering authority based a decision to deny a public charter school application shall be stated in writing, specifying objective reasons for the denial. Upon receipt of the grounds for denial, the sponsor shall have fifteen (15) days within which to submit an amended application to correct the deficiencies. The chartering authority shall have fifteen (15) days either to deny or to approve the amended application.

(3) If the chartering authority is:

(A) A local board of education, a denial of an application to establish a public charter school may be appealed by the sponsor, within ten (10) days of the final decision to deny, to the state board of education. The appeal and review process shall be in accordance with this subdivision (3). Within sixty (60) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing attended by the board or its designated representative and held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and make its findings. 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 approve the charter. The state board of education shall then be the chartering authority; and

(B) The state board of education, a final decision to deny an application to establish a public charter school may not be appealed.

SECTION 6. Tennessee Code Annotated, Section 49-13-109, is amended by deleting the second sentence in the section.

SECTION 7. Tennessee Code Annotated, Section 49-13-112, is amended by deleting subsection (a) and subsection (b) and by substituting instead the following:

(a) A local board of education shall allocate to the charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal law or regulation, including but not limited to Title I and ESEA funds. Such allocation shall be in accordance with rules and regulations promulgated by the department of education. All funds received by a charter school shall be spent according to the budget submitted or as otherwise revised by the public charter school governing body, subject to the requirements of state and federal law. At the request of the charter school governing body, a local board of education may act as fiscal agent for a public charter school in accordance with the charter agreement and applicable state and federal law.

(b) The department of education shall promulgate rules and regulations that provided for the determination of the allocation of state and local funds as provided in subsection (a). The department shall promulgate such rules and regulations effective for the 2009-10 school years. Any rules promulgated hereunder may be promulgated as public necessity rules. At a minimum, such rules shall provide that:

(1) Allocations shall be based on one hundred percent (100%) of state and local funds received by the LEA, including current funds allocated for capital outlay purposes (excluding the proceeds of debt obligations and associated debt service);

(2) Student enrollments used in allocations shall be for the same period used in allocating state funds to the LEA under the basic education program; and

(3) Allocations to the charter school may not be reduced by the LEA for administrative, indirect or any other category of cost or charge except as specifically provided in a charter agreement.

SECTION 8. Tennessee Code Annotated, Section 49-13-121(a), is amended by deleting the language “five-year periods” and by substituting instead the language “ten-year periods”.

SECTION 9. Tennessee Code Annotated, Section 49-13-121(b), is amended by deleting the language “period of five (5) academic years” and by substituting instead the language “period of ten (10) academic years”.

SECTION 10. Tennessee Code Annotated, Section 49-13-121(c), is amended by deleting the subsection in its entirety and by substituting instead the following:

(c) A public charter school renewal application shall contain a report consisting of a narrative of the school’s order of operations. Such narrative shall include an abstract of students’ standardized test scores, financial statements and performance audits of the nine (9) years preceding the date of the renewal application.

SECTION 11. This act shall take effect July 1, 2009, the public welfare requiring it.