

Amendment No. 2 to HB0702

Sargent
Signature of Sponsor

AMEND Senate Bill No. 830

House Bill No. 702*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-13-104, is amended by deleting subdivision (4) in its entirety and substituting instead:

(4) "Chartering authority" means:

(A) The local board of education or the achievement school district as defined in § 49-1-614 that approves, renews or decides not to revoke a public charter school application or agreement;

(B) The state board of education, if the state board approves a charter school under § 49-13-141 when an LEA is the sponsor of a charter school; or

(C) The state charter school panel upon appeal from a denial of approval of a charter school application by an LEA which contains at least one (1) priority school on the current or last preceding priority school list;

SECTION 2. Tennessee Code Annotated, Section 49-13-104, is amended by adding the following language as a new, appropriately designated subdivision:

() "Panel" means the state charter school panel created under § 49-13-142;

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following language as new sections:

49-13-142

(a) There is created the state charter school panel.

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(b)

(1) The panel shall be composed of nine (9) members. The speaker of the house of representatives shall appoint three (3) members, the speaker of the senate shall appoint three (3) members and the governor shall appoint three (3) members.

(2)

(A) One (1) of the appointees of the speaker of the house of representatives may be appointed from a list of candidates supplied by the Tennessee charter school association.

(B) One (1) of the appointees of the speaker of the senate may be appointed from a list of candidates supplied by the Tennessee charter school association.

(C) One (1) of the governor's appointees shall be the commissioner of education, one (1) may be appointed from a list of candidates supplied by the Tennessee school boards association and one (1) may be appointed from a list supplied by the Tennessee organization of school superintendents.

(3) In making their appointments the governor and the two (2) speakers shall consider the appointees' commitments to quality charter schools, high expectations of academic performance and provision of educational options to parents and children. The governor and the

speakers shall also strive for equal representation on the panel from the three (3) grand divisions of the state and representation from each of the leading political parties. The panel, as a whole, should possess knowledge of kindergarten through grade twelve (K-12) education, finance, business and nonprofit management and leadership.

(4) Any individual considered for appointment who is either a member of a local board of education or an employee of an LEA shall be from an LEA that has reviewed at least one (1) charter school application under § 49-13-107.

(c) Initial appointments shall be made no later than July 1, 2013; all subsequent appointments shall be made no later than July 1 of the year in which an appointment is due to be made. The initial members' terms of office shall commence upon appointment; however, for purposes of calculating the initial terms of the members' offices, the initial appointments shall be deemed to have been made on July 1, 2013.

(d)

(1) Except as provided in subdivisions (d)(2) and (d)(3), the appointed members of the panel shall serve four-year terms. No member of the panel shall serve more than two (2) consecutive terms.

(2) The terms of the members shall be staggered. In order to establish staggered terms, one (1) of each appointer's initial appointees shall serve a two-year term and one (1) a three-year term. Each appointer shall designate the term of each of the appointer's appointees.

(3) If a vacancy occurs, the appointer who made the appointment shall fill the vacancy in the same manner as the original appointment. Vacancies shall be filled for the remainder of the unexpired term.

(4) Each member of the panel shall serve until the member's successor is appointed.

(e) The panel shall elect a chair and such other officers as the panel deems necessary annually at the first meeting following July 1. A chair may serve two (2) successive terms.

(f) Following three (3) successive absences by a member from panel meetings, the chair may declare a vacancy and request that a new member who meets the criteria of the replaced member be appointed pursuant to this section.

(g) All members of the panel shall be voting members.

(h) The members of the panel shall receive no salary; provided, that members of the panel shall be reimbursed for actual expenses incurred in accordance with the state's comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(i) The panel and its staff shall be an independent agency of the state and shall not be under the oversight or direction of the state board of education, the department of education or other state department or agency.

(j) The division of state audit shall include as part of its scheduled audit of the department of education a review of the state charter school panel including, but not limited to, the panel's authority and function.

49-13-143.

(a) The state charter school panel shall:

(1) Review charter school applications, renewals and revocations on appeal from denials by LEAs which contain at least one (1) priority school on the current or last preceding priority school list;

(2) Be the chartering authority for all charter schools whose applications the panel approves on appeal. The panel is an appellate body only and shall not accept an application that has not been submitted to an LEA, except a renewal application from a charter school it has authorized on appeal;

(3) Appoint an executive director, who shall be a person qualified by training and experience to assist the panel and to perform the duties of the office. The panel shall fix the salary and benefits of the executive director, who shall serve at its pleasure. The panel also shall fix the salaries and benefits of any other staff, as may be engaged under subdivision (b)(1);

(4) Execute its duties consistent with best practices established by stakeholders, including the National Association of Charter School Authorizers;

(5) File a report on the overall state of charter schools and charter school authorizers to the education committees of the senate and the house of representatives and the comptroller of the treasury by February 1 of each year. The first report shall be filed by February 1, 2014. The report shall include academic performance and operational challenges of charter schools and recommendations for improving charter schools;

(6) Comply with the requirements of title 8, chapter 44, part 1, concerning open meetings; and

(7) Empower the executive director to contract with staff, as is necessary to assist the panel in carrying out its functions.

(b) The state charter school panel may:

(1) Apply for grants to support the work of the panel; and

(2) Request waivers, as necessary to carry out its responsibilities, from the commissioner of education under § 49-13-105.

(c)

(1) Oversight and monitoring of charter schools authorized by the panel shall be performed by the panel. As requested, the department of education shall assist the panel with general oversight of any charter school authorized by the panel.

(2) A charter school authorized by the panel shall continue to be overseen and monitored by the panel notwithstanding the subsequent removal of all schools in an LEA from the priority school list; provided, however, in the case of a charter school authorized by the panel but renewed by the LEA in accordance with this chapter, the LEA becomes the chartering authority and shall be responsible for oversight and monitoring of the charter school.

(d) For accountability purposes under § 49-1-602, the performance of a charter school authorized by the panel shall not be attributable to the LEA.

(e) Funding for charter schools authorized by the panel shall be in accordance with § 49-13-112, except that the LEA in which the charter school operates shall pay to the department one hundred percent (100%) of the per student share of local funding and one hundred percent (100%) of any federal funding in the custody of the LEA that is due to the charter school. The department shall withhold from the LEA one hundred percent (100%) of the per student share of state funding that is due to the charter school as well as one hundred percent (100%) of all federal funding in the custody of the department that is due to the charter school. The department shall then allocate and

disburse one hundred percent (100%) of these funds to the charter school in accordance with procedures developed by the department.

(f) The department shall determine the amount of the state BEP non-classroom component for capital outlay to be distributed, according to § 49-13-112(c), to a charter school authorized by the panel. The LEA shall pay to the department one hundred percent (100%) of the required local match under the BEP for capital outlay as a non-classroom component for distribution to the charter school.

(g) A charter school authorized by the panel may contract with the LEA in which the school operates for school support services or student support services, including, but not limited to, food services and transportation.

SECTION 4. Tennessee Code Annotated, Section 49-13-105, is amended by deleting the language "LEA" wherever it appears and substituting instead the language "chartering authority".

SECTION 5. Tennessee Code Annotated, Section 49-13-106(a)(1), is amended by deleting the subdivision in its entirety and substituting instead:

(1) Public charter schools may be formed to provide quality educational options for all students residing within the jurisdiction of the chartering authority; provided; however, that a chartering authority 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).

SECTION 6. Tennessee Code Annotated, Section 49-13-107, is amended by adding the following language as a new subsection:

(e) In reviewing an application, a chartering authority may take into consideration the past and current performance, or lack thereof, of any charter school operated by the sponsor.

SECTION 7. Tennessee Code Annotated, Section 49-13-108(a)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3)

(A) Except as provided in subdivision (a)(3)(B), a denial by the local board of education 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 (a)(3)(A). 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 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. The decision of the state board shall be final and not subject to appeal. The LEA, however, shall be the chartering authority.

(B) In any LEA which contains at least one (1) priority school on the current or last preceding priority school list, a sponsor may request an appeal following a denial by the local board of education of an application to establish a public charter school, within ten (10) days of the final decision to deny, to the state charter school panel. The appeal and review process shall be in accordance with this subdivision (a)(3)(B). Within thirty (30) days, the panel shall notify the sponsor as to whether the panel will hold an appeal hearing. The panel or its executive director, acting for the panel, may allow a sponsor to make corrections to its application on appeal, except for the elements of the application required under § 49-13-107(b)(1), (2), (4), (6), (9), (12), (13), (18) and (20). Within sixty (60) days after receipt of the notice of appeal and after reasonable public notice, the panel, at a public meeting attended by the panel 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 panel finds that the local board's decision was contrary to the best interests of the pupils, school district or community, the panel may approve the application for the charter school. The decision of the panel shall be final and not subject to appeal. The panel shall be the chartering authority.

SECTION 8. Tennessee Code Annotated, Section 49-13-108, is amended by adding the following language as new subsections:

(d) Except as provided in § 49-13-115, chartering authorities may not approve an application based on conditions or contingencies.

(e) Prior to approving any charter school on appeal to the state charter school panel, the panel shall consider the financial impact of the charter school

on the LEA. The panel may request additional information from the charter school sponsor and the LEA in regards to such consideration. The panel shall not approve for operation any charter school which is determined to have a substantial negative fiscal impact on an LEA.

(f) Chartering authorities are encouraged to adopt national authorizing standards for use in reviewing charter school applications. The state charter school panel shall adopt national authorizing standards.

SECTION 9. Tennessee Code Annotated, Section 49-13-110(b), is amended by deleting the punctuation “.” at the end of the second sentence and substituting instead the following language:

; provided, that if the chartering authority is the state charter school panel, then no appeal may be made of the panel's decision to deny a petition to amend the charter.

SECTION 10. Tennessee Code Annotated, Section 49-13-111(a)(3), is amended by deleting the word “Receive” and substituting instead the language “Except as provided in § 49-13-143(e), receive”.

SECTION 11. Tennessee Code Annotated, Section 49-13-112(b)(3)(C), is amended by deleting the language “LEA” wherever it appears and substituting instead the language “chartering authority”.

SECTION 12. Tennessee Code Annotated, Section 49-13-113, is amended by adding the following language as a new subsection:

(f) A charter school authorized by the state charter school panel may enroll any student in the LEA in which the charter school is located who is in the grades served by the school. However, if a charter school sponsor submits an application with the focus of serving students from a group or groups set forth in § 49-13-106(b)(1)(C), then the school shall give preference in enrollment to

students from such group or groups; otherwise the charter school sponsor shall comply with subsection (a). A charter school authorized by the panel may accept students from outside the LEA as provided in subdivision (b)(2).

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

(b)

(1) No later than April 1 of the year prior to the year in which the charter expires, the governing body of a public charter school shall submit a renewal application to the LEA, if the LEA is the chartering authority, or to the state charter school panel or the LEA, if the panel is the chartering authority. On or before the following February 1, the chartering authority to which the renewal application was submitted shall rule by resolution on whether to approve or deny the renewal application. The decision of the chartering authority shall be based on the report and evaluation required under § 49-13-120.

(2) A decision by an LEA to deny a renewal application may be appealed by the governing body, within ten (10) days of the decision to deny, to the state board of education or, if the charter school is located within an LEA which contains at least one (1) priority school on the current or last preceding priority school list, the state charter school panel. If the state board of education directs the chartering authority to approve the renewal of the charter agreement, the public charter school shall continue to operate for the prescribed period of ten (10) academic years. If the panel approves the renewal of the charter agreement, the public charter school shall continue to operate for the prescribed period of ten (10) academic years and the panel shall be the chartering authority. A

decision by the board or panel to deny the renewal of a charter agreement shall be final. No appeal may be taken.

(3) If the school submits its renewal application directly to the panel pursuant to subdivision (b)(1), then the decision of the panel on the renewal application is final and may not be appealed.

SECTION 14. Tennessee Code Annotated, Section 49-13-121(d), is amended by deleting the language "LEA" wherever it appears and substituting instead the language "chartering authority".

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

(c)

(1) Except for revocations or failures to renew based on the violations specified in subdivision (a)(2), a decision of an LEA not to renew or to revoke a charter agreement may be appealed to the state board of education or, if the LEA contains at least one (1) priority school on the current or last preceding priority school list, to the state charter school panel within ten (10) days of the decision.

(2) An appeal to the board shall be conducted according to § 49-13-108(a)(3)(A). The decision of the board is final and may not be appealed.

(3) An appeal to the panel shall be conducted according to § 49-13-108(a)(3)(B). If the panel overturns the LEA's decision, then the panel shall be the chartering authority for the school. The decision of the panel is final and may not be appealed.

(4) If the panel decides not to renew or to revoke a charter agreement for which it is the chartering authority, then the decision of the panel is final and may not be appealed.

SECTION 16. The state charter school panel is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 17. Sections 3 and 16 of this act shall take effect July 1, 2013, the public welfare requiring it. All other sections of this act shall take effect January 1, 2014, the public welfare requiring it, and shall apply to appeals from the denial of applications filed by sponsors for charter schools proposing to open in the 2015-2016 school year and school years thereafter.