

Senate Finance, Ways and Means Committee 3

Amendment No. 4 to SB0830

McNally
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:

(i) Under § 49-13-141 when an LEA is the sponsor of a charter school; or

(ii) Upon appeal from a denial of approval of a charter school application by an LEA that contains at least one (1) priority school on the current or last preceding priority school list;

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following language as a new section:

49-13-142.

(a) This section shall only apply to charter schools authorized by the state board of education upon appeal from a denial of approval of a charter school application by an LEA that contains at least one (1) priority school on the current or last preceding priority school list.

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(b)

(1) Except as provided in subdivision (b)(3), oversight and monitoring of charter schools authorized by the state board of education shall be performed by the state board. As requested, the department of education shall assist the state board with general oversight of any charter school authorized by the state board.

(2) A charter school authorized by the state board shall continue to be overseen and monitored by the state board 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 state board but renewed by the LEA in accordance with § 49-13-121(b), the LEA becomes the chartering authority and shall be responsible for oversight and monitoring of the charter school.

(3) A charter school authorized by the state board and the LEA in which the charter school is located may, within thirty (30) calendar days of such authorization, mutually agree that the charter school shall be overseen and monitored by the LEA. Any such agreement shall be filed with the state board in a manner prescribed by the state board. This subdivision (b)(3) shall also apply to charter schools renewed on appeal by the state board.

(c)

(1) Except as provided in subdivision (c)(2), for accountability purposes under § 49-1-602, the performance of a charter school authorized by the state board of education shall not be attributable to the LEA.

(2) If a charter school authorized by the state board and the LEA in which the charter school is located mutually agree that the charter school shall be overseen and monitored by the LEA pursuant to subdivision (b)(2), then, for accountability purposes under § 49-1-602, the performance of the charter school shall be attributable to the LEA.

(d) Funding for charter schools authorized by the state board 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.

(e) 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 state board. 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.

(f) A charter school authorized by the state board 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 3. 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 4. 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 5. 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 6. Tennessee Code Annotated, Section 49-13-108(a), is amended by deleting the first sentence and substituting instead the following:

This section shall apply only to applications for new charter schools under § 49-13-106(b)(1) that are submitted to an LEA.

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) 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).

(B) 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.

(C) The state board or its executive director, acting for the state board, 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).

(D) If the application is for a charter school in an LEA that does not contain a priority school on the current or last preceding priority school list and 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.

(E) If the application is for a charter school in an LEA that contains at least one (1) priority school on the current or last preceding priority school list and 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 may approve the application for the charter school. The decision of the state board shall be final and not subject to appeal. The state board 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 otherwise provided in § 49-13-115, chartering authorities shall not approve an application based on conditions or contingencies.

(e) Prior to approving any charter school on appeal if the LEA's denial is based on substantial negative fiscal impact, the state board shall consider the financial impact of the charter school on the LEA. The state board may request additional information from the charter school sponsor and the LEA in regards to such consideration. The state board shall not approve for operation any charter school that is determined by the board to have a substantial negative fiscal impact on an LEA, such that authorization of the charter school would be contrary to the best interests of the pupils, school district or community.

(f) Chartering authorities are encouraged to adopt national authorizing standards for use in reviewing charter school applications. The state board 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 board, then no appeal may be made of the state board'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 § 49-13-142(d), 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 board 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 state board 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 board of education or the LEA, if the state board 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) 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.

(B) If the application is for a charter school in an LEA that does not contain a priority school on the current or last preceding priority school list and 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.

(C) If the application is for a charter school in an LEA that contains at least one (1) priority school on the current or last preceding priority school list and if the state board 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 state board shall be the chartering authority.

(D) A decision by the state board to deny the renewal of a charter agreement shall be final. No appeal may be taken.

(3) If the public charter school submits its renewal application directly to the state board pursuant to subdivision (b)(1), then the decision of the state board 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 within ten (10) days of the decision.

(2) An appeal to the state board of an LEA's decision not to renew or to revoke a charter agreement shall be conducted according to § 49-13-108(a)(3). The decision of the board is final and may not be appealed.

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

SECTION 16. The state board of education 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. For purposes of promulgating rules and regulations, 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, 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.