

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 97a

50th Legislature, 1st Session, 2011

Tracking Number: .183509.1

Short Title: Charter School Conversion Attendance

Sponsor(s): Representative Jimmie C. Hall and Others

Analyst: David Harrell

Date: February 9, 2011

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AS AMENDED

The House Consumer and Public Affairs Committee amendment corrected two typographical errors (see “Original Technical Issues,” below).

Bill Summary:

HB 97 amends the *Assessment and Accountability Act* in the *Public School Code* to clarify that, if a traditional public school in Restructuring 2 in the school improvement cycle chooses to reopen as a charter school, the students already attending that school, as well as those students’ siblings, receive preference for enrollment.

Fiscal Impact:

HB 97 does not contain an appropriation.

Substantive Issues:

HB 97 addresses a question that arose because of changes in the *Charter Schools Act* (effective July 1, 2007) and their relationship to the state’s *Assessment and Accountability Act* and the federal *No Child Left Behind Act of 2001* (NCLB). The question is the status of students already attending a school subject to restructuring if, pursuant to state and federal law, that school chooses to reopen as a charter school. Although the essential issue is quite simple, it requires some explanation.

- Until the 2007 legislation, state law provided for two kinds of charter schools – conversion and start-up – both of them authorized only by local school boards. A conversion school was an existing public school converted to charter status; a start-up school was a new school developed by parents, teachers, or community members. In the case of a conversion school, students already attending the school and their siblings had preference for enrollment. Other students wishing to enroll in a charter school were – and still are – placed in a lottery, pursuant to state and federal law, if the number of students applying exceeded the school’s capacity.

- Among numerous other provisions, the legislation effective in 2007 allowed the Public Education Commission (PEC) to authorize state-chartered charter schools, in addition to the locally chartered schools authorized by local school boards; and it limited conversion charter schools to those that had been authorized by a local school board prior to July 1, 2007.
 - As noted in an analysis of the 2007 legislation by the staff of the Legislative Education Study Committee (LESC), this definition of a conversion charter school seemed to eliminate one of the options for restructuring a public school that, for several years, had failed to make adequate yearly progress (see “Background,” below). That option is to reopen – or convert – the school as a charter school.
 - To address this conflict, legislation enacted in 2008 prescribed a process to reopen a public school subject to restructuring as a state-chartered charter school. However, that legislation did not address the issue of enrollment preference for students already attending the school; hence the need for HB 97.

The analysis of HB 97 by the Public Education Department indicates that the bill is unnecessary because the 2008 amendments to the *Assessment and Accountability Act* make the provisions of the *Charter Schools Act* applicable to any traditional public school that is reopened as a state-chartered charter school and because the *Charter Schools Act* grants enrollment preference to students attending the school at the time of its conversion to a charter school.

- While the provisions may be interpreted that way, HB 97 would state the point explicitly rather than rely upon interpretation.
- Of particular note is that the *Charter Schools Act* does not recognize the term “reopen” as it is used in the *Assessment and Accountability Act*; and, as noted above, the *Charter Schools Act* limits conversion status to schools authorized by a local school board prior to July 1, 2007; whereas the charter schools in question would be authorized by the PEC well after July 1, 2007.
- During the 2010 interim, when the LESL was discussing the enrollment provisions of charter schools, clarification of the sort provided by HB 97 seemed to be in order.

So far, no schools subject to restructuring have selected the option of reopening as charter schools. Should any schools do so in the future, however, the amendment in HB 97 would facilitate the process by removing any doubt about the status of students already enrolled in that school.

Original Technical Issues:

HB 97 contains two typographical errors:

- on page 1, line 13, the phrase “Accountability and Accessibility Act” should read “Assessment and Accountability Act”; and
- on page 2, line 11, the word “performance” should be “preference.”

Background:

Both state law and the federal NCLB provide a series of consequences, or sanctions, for schools that fail to make “adequate yearly progress” (AYP), which is a prescribed degree of improvement, primarily in student achievement, that schools are expected to make each year – not only for their entire student populations but also for certain subgroups of students: economically disadvantaged students, major racial or ethnic groups, students with disabilities, and English language learners.

- Schools begin to face the series of sanctions after two consecutive years of not making AYP. At that point, a school enters the school improvement cycle with a designation of School Improvement 1 (SI-1). In general, a school remains in the school improvement cycle until it makes AYP for two consecutive years, proceeding through the subsequent stages: School Improvement 2 (SI-2), Corrective Action (CA), Restructuring 1 (R-1), and Restructuring 2 (R-2). The Attachment to this analysis explains this series of consequences in more detail.
- HB 97 applies to the restructuring phase of the school improvement cycle. A school at R-1 in the cycle must develop a plan to restructure; and a school at R-2 must implement the plan. Under both state and federal law, four restructuring options are available: (1) reopening as a charter school, (2) replacing all or most of the school staff, (3) submitting to state takeover, or (4) conducting some other major restructuring of the school’s governance.¹

Related Bills:

HB 192 *Charter School Enrollment Preferences*

¹ For restructuring, NCLB contains one provision not found in state law: the additional option of having a school contract with a private management firm (which state law prohibits).