

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 555

SENATE BILL NO. 2133

**By Woodson, Gresham, Henry, Johnson, Beavers, Watson, Tracy, Ketron,
Mr. Speaker Ramsey**

Substituted for: House Bill No. 2146

By Harwell, Pruitt, Weaver, Kelsey, Mr. Speaker Williams, Coley, Maggart,
Campfield, Rich, Swafford, McCormick, Eldridge, Haynes, Carr, Lynn, Dunn,
Winningham, Lollar, Niceley, Dennis, Ulysses Jones, Hardaway

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(1), is amended by deleting subdivision (1) in its 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;

SECTION 2. Tennessee Code Annotated, Section 49-13-106(a)(1), is amended by deleting subdivision (E) in its entirety and by substituting instead the following language:

(E)(i) Students who are eligible for free or reduced-price lunch and who are enrolled in LEAs that have an average daily membership (ADM) of fourteen thousand (14,000) students or more and three (3) or more schools which have missed the same benchmark for adequate yearly progress for two (2) or more consecutive years resulting in such schools being designated as high priority schools.

(ii) Notwithstanding the provisions of subdivision (E)(i) to the contrary, any LEA operating in this state may choose by a two-thirds (2/3) majority vote of the local board of education to allow students eligible for free or reduced-price lunch to be eligible to attend charter schools.

SECTION 3. Tennessee Code Annotated, Section 49-13-106(a)(2), is amended by deleting the subdivision in its entirety.

SECTION 4. Tennessee Code Annotated, Section 49-13-102(e), is amended by deleting the language "as provided for in § 49-13-106(a)(2)".

SECTION 5. Tennessee Code Annotated, Section 49-13-106(b)(2)(B), is amended by deleting the language "subdivisions (a)(1) or (2)" and by substituting instead the language "subdivision (a)(1)(B)".

SECTION 6. Tennessee Code Annotated, Section 49-13-106(b)(2), is amended by adding the following language as new subdivision (D):

(D) The limit imposed in subdivision (b)(1)(C) on the number of charter schools that may be created does not apply to conversions of public schools to public charter schools.

SECTION 7. Tennessee Code Annotated, Section 49-13-108, is amended by deleting the first sentence of the section in its entirety and by substituting instead the following sentence:

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

SECTION 8. Tennessee Code Annotated, Section 49-13-112, is amended by deleting subsection (a) and subsection (b), by substituting instead the following language as new subsections (a), (b) and (c), and by relettering subsequent subsections appropriately:

(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 provide 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 2010-2011 school years. Notwithstanding the provisions of § 4-5-209, 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.

(c)(1) Notwithstanding any provisions of Title 49, Chapter 3, Part 3 or this section to the contrary, the Department of Education shall calculate the amount of state funding required under the BEP for capital outlay as a non-classroom component to be received in a fiscal year by an LEA in which one (1) or more charter schools operate. The department shall reserve from the sum for such LEA the funds that constitute the amount due to charter schools operating in the LEA and shall not distribute such reserved amount to the LEA. The department shall distribute from the reserved amount directly to each charter school its total per pupil share as determined by its average daily membership (ADM). The per pupil share of each charter school shall be based on prior year ADM, except that the per pupil share of any charter school in its first year of operation shall be based on the anticipated enrollment in the charter agreement.

(2) Although the BEP does not require LEAs to expend specific amounts for the individual components by which the funds were generated, the per pupil funding required to be paid directly by the department to a charter school under this subsection shall be used solely for charter school facilities. Such per pupil facilities aid may be used for rent for school facilities, construction, renovation of an existing school facility, leasehold improvements, debt service on a school facility or purchase of a building or land; provided, that no such funds shall be expended for purchase of land when the charter school does not have immediate plans to construct a building on the land.

(3) Notwithstanding the provisions of subdivision (1), the LEA shall include in the local share of funds paid to a charter school the required LEA match for the state funds generated under the BEP for capital outlay as a non-classroom component which are paid under this subsection directly to a charter school as per pupil facilities aid.

SECTION 9. 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 10. 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 11. 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 of the school's operations, including students' standardized test scores, financial statements and performance audits of the nine (9) years preceding the date of the renewal application. The Department of Education shall develop guidelines that govern the charter renewal application process.

SECTION 12. Tennessee Code Annotated, Section 49-13-121, is amended by adding the following language as a new, appropriately designated subsection:

() An interim review of a charter school shall be conducted by the LEA under guidelines developed by the Department of Education in the fifth year of a charter school's initial period of operation and also in the fifth year following any renewal of a charter agreement. Such guidelines shall require a charter school to submit to the LEA a report on the progress of the school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the approved charter agreement.

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

§ 49-13-___. The Department of Education, in collaboration and cooperation with charter schools, shall identify charter school most promising practices and implement a system for dissemination of such practices. Such system shall include identification of those schools that could benefit most directly from innovative practices in charter schools. Such system of dissemination shall allow LEAs across the state and traditional public schools to learn from charter schools' most promising practices.

SECTION 14. Tennessee Code Annotated, Section 49-13-106(b)(2), is amended by adding the following language as a new, appropriately designated subdivision:

() A public school in restructuring 2—alternate governance under § 49-1-602(g), at the option of the Commissioner of Education, may be converted to a public charter school. If the commissioner selects this option for such school, then during the fifth year of improvement status, the commissioner is authorized to solicit applications for the conversion of the school to a charter school. Applications for conversion of a school may be submitted to the Commissioner of Education by any entity that qualifies as a sponsor of a charter school under § 49-13-104 or by the LEA. If the commissioner, with the advice of the State Board of Education, approves an application for conversion of the school to a charter school, the school shall become a public charter school at the beginning of the school year following the fifth year of improvement status. If no charter application is submitted to the commissioner, the commissioner may direct the LEA to submit a charter application for conversion of such school, so that the school may commence operation as a charter school at the beginning of the school year following the fifth year of improvement status. Parents whose children are enrolled at the school shall have the option to enroll their children in another public school without penalty.

SECTION 15. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following language as a new, appropriately designated section:

§ 49-13-___. Notwithstanding any provision of this chapter to the contrary, the Commissioner of Education may adopt dates and timelines for submitting applications and processing applications as the commissioner finds necessary to expedite the process of conversion of a school in restructuring 2—alternate governance under § 49-1-602 to a charter school.

SECTION 16. Tennessee Code Annotated, Section 49-13-120, is amended by designating the existing language as subsection (a) and by adding the following language as new subsection (b):

(b) Each charter school shall provide in the report required under this section a detailed accounting, including the amounts and sources, of funds other than those funds received under § 49-13-112(a). Such funds shall include, but not be limited to, any funds received from sources under § 49-13-112(d).

SECTION 17. Any costs associated with the implementation of this act shall be paid from existing funds.

SECTION 18. Tennessee Code Annotated, Section 49-13-106(b)(1)(C), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(C)(i) Prior to July 1, 2015, charter schools created for the purpose stated in subsection (a) shall not exceed, statewide, ninety (90) in number, thirty-five (35) of which shall be located within a home rule municipality of a county with a population in excess of eight hundred ninety-seven thousand four hundred (897,400) according to the 2000 federal census or any subsequent federal census, four (4) of which shall be located within a county with a population in excess of eight hundred ninety-seven thousand four hundred (897,400) according to the 2000 federal census or any subsequent federal census, and twenty (20) of which shall be located in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census.

(ii) Notwithstanding any provision of this chapter to the contrary, charter schools may be formed that are devoted exclusively to the re-enrollment of high school students who have dropped out of school. Statewide, no more than three (3) such charter schools shall be created. No more than one (1) such charter school shall be created in any LEA. No such charter schools shall count against the caps under subdivision (C)(i).

SECTION 19. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following language as a new, appropriately designated section:

§ 49-13-____.

(a) The Department of Education shall develop a student tracking system to be used to track students who leave charter schools. Such system shall show when and why the student left the charter school. Such system may be modeled on the current tracking system used to determine high school dropout rates. A charter school shall report the data required by the tracking system to the LEA. The department shall include such data in its annual report on charter schools required under § 49-13-120.

(b) The department shall report in writing to the Education Committee of the House of Representatives and the Education Committee of the Senate by October 1, 2009, how changes in funding provided to charter schools under § 49-13-112 occur when students leave charter schools.

SECTION 20. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following language as a new, appropriately designated section:

§ 49-13-____. LEAs in which there exist charter schools or in which charter schools are proposed to be created are strongly encouraged to establish non-charter public schools of innovation using federal funding that is available for such purpose. Such non-charter public schools shall be designed to function as a control group to enable the effectiveness of charter schools to be more adequately assessed through comparative evaluations.

SECTION 21. Tennessee Code Annotated, Section 49-13-113, is amended by adding the following language as new subsection (d):

(d)(1) Notwithstanding provisions of subsections (b) and (c) to the contrary, a charter school shall conduct an initial student application period of at least thirty (30) days. During the initial student application period, students meeting the requirements of § 49-13-106(a)(1)(A)-(D) shall be given priority. If the number of students seeking to be enrolled who meet the requirements of § 49-13-106(a)(1)(A)-(D) exceeds the school's capacity or the capacity of a program, class, grade level or building, then the enrollment of students meeting the requirements of § 49-13-106(a)(1)(B)-(D) shall be determined on the basis of a lottery. If the number of students seeking to be enrolled who meet the requirements of § 49-13-106(a)(1)(A)-(D) does not exceed the capacity of a program, class, grade level or building, then, after the initial student application period, the charter school may enroll students in such program, class, grade level or building who meet the requirements of § 49-13-106(a)(1)(E). If the number of students seeking to be enrolled who meet the requirements of § 49-13-106(a)(1)(E) exceeds the school's capacity or the capacity of a program, class, grade level or building remaining after the initial student application period has ended, then enrollment for students meeting the requirements of § 49-13-106(a)(1)(E) shall be determined on the basis of a lottery. Any lottery required to be conducted under this subsection (d) shall be conducted within seven (7) days after the end of the initial student application period. After the initial student application period, a charter school with unfilled capacity in a program, class, grade level or building may enroll any student seeking enrollment in such program, class, grade level or building who meets the requirements of § 49-13-106(a)(1)(A)-(E).

(2) A charter school shall provide to the Department of Education certification by an independent accounting firm or by a law firm that each lottery conducted for enrollment purposes complied with the requirements of this subsection (d). In lieu of such certification, a charter school may

request that the Department of Education review and approve the lottery process.

(3) The charter school shall comply with the Family Education Rights and Privacy Act (20 U.S.C. § 1232g) with respect to the publication of any list of students' names before, during or after the enrollment and lottery process.

(4) The provisions of this subsection shall only apply in LEAs in which students are eligible to enroll in charter schools pursuant to § 49-13-106(a)(1)(E).

(5) The State Board of Education shall promulgate rules and regulations concerning enrollment lotteries to be conducted under this subsection (d). All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 22. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 18, 2009



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 29th day of June 2009



PHIL BREDESEN, GOVERNOR