

# Texas Classroom Teachers Association

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## Testimony to the Senate Education Committee Regarding SB 738 By Holly Eaton, Director of Professional Development and Advocacy March 22, 2011

We respectfully oppose this bill for several reasons:

- It potentially greatly expands the number of home-rule school districts without the need for local voter approval. The bill allows districts awarded an exemplary distinction designation for at least two years to establish "Empowerment Home-Rule School Districts" and appoint a charter commission with a simple majority vote of the board.
- It eliminates several of the limited number of laws with which home-rule school districts must currently comply, including elementary class size limits.
- It then allows waivers even from the small core list of laws (except Ch. 39 accountability) which the legislature believed at an absolute minimum should be in place in order to ensure the provision of a quality education.
- It allows superintendents to circumvent local school boards in authorizing district campus charters.
- It provides for the expansion of district campus charters which aren't subject to direct state oversight by allowing the Commissioner to order the board or the governing body of a home-rule district (as applicable) to convert a campus to a charter campus in certain situations.

Currently, home-rule school districts must only comply with the following laws: provisions establishing a criminal offense; provisions relating to limitations on liability, PEIMS, educator certification, Sections 21.407, 21.408, and 22.001 in Chapter 21, criminal history records, student admissions, school attendance, inter-district/inter-county transfers, elementary class size limits, high school graduation requirements, special education, bilingual, pre-K, transportation safety, state aid provisions, extracurricular, health and safety, accountability, equalized wealth, bonds/tax rates, and purchasing.

Given that this leaves a large number of laws that these districts are exempt from, including ones that many would argue are essential in order to ensure a baseline of protection for students, educators and parents (see attachment), in exchange for this, the legislature felt that it was important to place a critical check on the establishment of such districts in the form of a significant voter turnout requirement in order for an election authorizing such a district to occur (at least 25 percent of the registered voters of the district vote in the election in which the adoption of the charter is on the ballot. TEC Sec.12.022).

This bill circumvents that process by allowing districts awarded an exemplary distinction designation for at least two years to establish "Empowerment Home-Rule School Districts" and appoint a charter commission with a simple majority vote of the board. It should be noted that in 2010, there were 241 Exemplary districts. In light of the almost carte-blanch exemption that the districts have from state law, we do not believe that this mechanism for a potentially large home-rule district expansion is appropriate. Additionally, we note that it's ironic that the very educators who were responsible for the district's success in achieving exemplary status would be "rewarded" by eliminating their basic rights and protections under Chapter 21 in this scenario, since home-rule districts do not have to comply with Chapter 21. Quite the opposite of a reward, this actually appears to be a performance penalty.

Although the bill requires that an Empowerment Home-Rule district formed in this way must maintain its exemplary distinction designation status, we are unaware of any provisions in the bill that address what happens if they do not.

Besides providing for a means of potentially greatly expanding the number of home-rule districts without voter approval, the bill also essentially greatly erodes even the limited number of laws that the legislature believed at an absolute minimum home-rule school districts must comply with in order to ensure the provision of a quality education. It eliminates elementary class size limits, and selected sections of Chapter 21 including prohibitions on coercing educators to join or not join a group or professional organization.

It then allows for waivers of the laws that are left, including high school graduation requirements, health and safety, state bilingual and special education laws, and prekindergarten.

We find this extremely objectionable as we cannot fathom that it would be acceptable for any school district to operate without having to provide these essential programs and services for students.

Regarding district campus charters, the bill allows superintendents (in addition to school boards) to grant campus charters to parents/teachers or to grant a charter for a new district campus or for a program that is operated by an entity that has contracted with the district to provide educational services to the district at a

facility located in the boundaries of the district. It also removes the provision allowing for a home-rule governing body to grant such charters.

We have concerns about circumventing local school boards regarding decisions about district campus charters when they are accountable to the voters for all campuses within their district, as opposed to superintendents, who are not elected.

The bill further requires that funding for a campus/program that is granted a charter may not be less on a per-pupil basis than the amount of funding for any regular campus in the district. This could potentially require that such a campus receive as much funding as the highest-funded regular campus in the district, regardless of the student population of the district charter.

Finally the bill provides that the Commissioner of Education can order a school board or governing body of a home-rule district to convert a campus to a charter campus if the campus has been identified as unacceptable for two consecutive school years. Given that campus charters must comply with the least number of laws out of any of the entities in Chapter 12, it is counterintuitive to provide for the worst-performing schools to be converted to campus charters. Our worst performing schools need more structure and oversight, not less.

If the goal is to free high-performing school districts from the bulk of state laws governing education, that mechanism is already in place under the Excellence Exemptions provisions in current law (TEC §39.232). Additionally, the Commissioner of Education has broad waiver authority to allow districts flexibility in areas in which the district demonstrates a justifiable need. In sum, we don't believe that the erosion of the core set of laws with which home-rule districts must comply, or the circumvention of the local electorate as a way to expand the number of these districts is justified or appropriate.

Thank you for your consideration of our views.

## Provisions of State Law Not Applicable under Home Rule

### UNDER CURRENT LAW

Minimum educational standards for students, including:

- Class-size caps for campuses rated at least acceptable
- Length of school day
- Restriction on class interruptions
- Minimum attendance for class credit
- Pledges of allegiance
- Moment of silence to pray, meditate or engage in any other non-disruptive silent activity

Parent and student rights, including:

- Right to free exercise of religion under the state's Religious Viewpoints Antidiscrimination Act
- Right to reasonable access to the principal to request change in student assignment
- Right to request addition of academic course
- Right to request that a child attend an academic class for credit above the child's grade level
- Right to request early graduation
- Right to enroll in courses under the state's virtual schools network
- Right to access to school records (except as provided by federal law)
- Right to access to state assessments
- Right to access to teaching materials
- Right to full information concerning the student
- Right to information concerning special education and education of students with learning disabilities
- Special rights under Public Information Act for parents
- Right to not have psychological examinations, tests or treatments conducted on a child without written parental consent
- Right to not have video- or audio-taping of a student without written consent
- Right to refuse psychiatric treatment or psychotropic drug without risking charges of child neglect
- Right to remove student from a class for an activity that conflicts with the parent's religious or moral beliefs

Curriculum standards, including:

- Required and enrichment curriculum under Texas Essential Knowledge and Skills (testing based on TEKS would still apply)
- Physical education and physical activity requirements
- Right to access to educational program offered at another school if at least 22 students request a transfer
- Requirement that English shall be the basic language of instruction in public schools except for dual language immersion programs and bilingual instruction as necessary to ensure students' reasonable proficiency in English and ability to achieve academic success

Educator rights and benefits, including:

- Certified employee contract rights, including the right to due process during the term of a contract and the minimal procedures in place for contract nonrenewals
- Access to group health benefits, including the right to be covered for pre-existing conditions

- State personal leave, including the right to paid leave for physical injuries when assaulted by a student
  - State minimum salary schedule
  - Planning and preparation periods
  - Duty-free lunch
  - Access to leave of absence for temporary disabilities for teachers
  - Ability to appeal to TEA for violations of school laws
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**UNDER SB 738, home-rule districts would ALSO be automatically exempt from:**

- All provisions regarding class-size caps
- Certification of educators in non-core subjects
- The law prohibiting a board or employee from coercing a teacher to refrain from political activity
- The law prohibiting coercion to join or not join a group, club, committee or organization
- The law ensuring that an educator can join or refuse to join a professional organization
- The law allowing payroll deduction

**Home-rule districts could get waivers from the laws regarding:**

- PEIMS
- Criminal history records
- Student admissions
- Compulsory attendance
- Inter-district/inter-county transfers
- High school graduation
- Special education
- Bilingual
- Pre-K
- Transportation safety
- State aid provisions
- Extracurricular activities
- Health and safety
- Equalized wealth
- Bonds/tax rates
- Purchasing