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Before the House Committee on Public Education
The Honorable Dan Huberty, Chair

March 28, 2017

Key Points
HB 1269 (Villalba)
Position: Oppose

- HB 1269 provides facilities funding for charters without addressing the existing M&O funding advantage that charters enjoy as compared to the districts with which they compete.
- HB 1269 provides additional funding for certain charters while potentially excluding the performance of a significant portion of the charter’s campuses and students, and relying on only two of five state assessments.
- HB 1269 creates financial incentives for districts to evade accountability for persistently low-performing campuses by turning them over to charter operators.
- HB 1269 establishes incentives for charters to address expulsions and provide DAEP/JJAEP services that districts are required to provide.

Mr. Chairman and members of the committee, my name is Ann Smisko, and I serve as Deputy Director of Policy and Programs at Raise Your Hand Texas. I appear before you today on behalf of Raise Your Hand to register our concerns regarding HB 1269 and respectfully testify in OPPOSITION to the bill.

HB 1269 provides facilities funding for charters without addressing the existing M&O funding advantage that charters enjoy as compared to the districts with which they compete.

The bill entitles open enrollment charter schools the average state funding per student in Average Daily Attendance (ADA) under the IFA and EDA facilities funding programs without
addressing the existing M&O funding advantage that charters enjoy compared to the districts with which they compete.

While it is true that charter schools do not receive state facilities funding under IFA or EDA, they generally enjoy M&O funding levels higher than the districts with which they compete for students. As the Legislative Budget Board explained in its 2017 Government Effectiveness and Efficiency Report (GEER) because charters are funded based on statewide averages of certain district funding elements, “[d]istricts with more than 1,000 students are generally funded lower than their equally sized charter schools, while districts with less than 1,000 students are generally funded higher than their charter counterparts.” Charter schools locate overwhelmingly in urban and suburban areas with school districts with large student populations. According to PEIMS data regarding student transfers, more than 99 percent of charter enrollment comes from students residing in districts with more than 1,000 students. Consequently, in the vast majority of cases, state costs increase when a student moves from an ISD to a charter school.

This bill will further increase this cost differential by continuing to award higher M&O funding to most charters while additionally awarding facilities funding. It is also worth noting that the yield on the state facilities programs has not increased since 1997, so more than half of ISDs no longer receive state funding to reduce the tax rate on their facilities debt.

In addition to the inequity of providing facilities funding without addressing charters’ M&O funding advantage, TEA has indicated that there are significant issues relating to who holds title to properties purchased with state funds in the event of default or closure of a charter. These problems will be exacerbated by extending facilities funding to all charter operators without an effective mechanism to recover taxpayer investments in these properties should a charter close. (It should also be noted that Texas already leads the nation in the total amount of charter debt due in part to the availability of the PSF guarantee. Charters issued nearly half a billion dollars in PSF-guaranteed debt in 2014 alone.)

**HB 1269 provides additional funding for certain charters while potentially excluding the performance of a significant portion of the charter’s campuses and students, and relying on only two of five state assessments.**

HB 1269 awards additional funding to certain charters based on performance criteria identified in the bill, which are:

- For a charter holder for whom at least 50 percent of enrolled students for the current year are economically disadvantaged, the percentage of the charter holder’s economically disadvantaged students who achieved the college readiness performance
standard on two or more assessment instruments administered under Section 39.023(a) or (c) exceeded the percentage of all economically disadvantaged students in the state who achieved that standard on two or more of those assessment instruments for at least two of the last three preceding school years;

• For a charter holder for whom less than 50 percent of enrolled students for the current year are economically disadvantaged, the percentage of the charter holder’s students who are not economically disadvantaged and who achieved the college readiness performance standard on two or more assessment instruments administered under Section 39.023(a) or (c) exceeded the percentage of all students in the state who are not economically disadvantaged and who achieved that standard on two or more of those assessment instruments for at least two of the last three preceding school years; or

• The charter holder has qualified for and received supplemental funding under Subdivision (1) or (2) for three consecutive school years.

While these performance criteria initially appear reasonable, a closer reading reveals several reasons for concern:

• The bill allows the charter holder to elect to exclude assessment results from campuses that are two or fewer years old;

• The additional funding is awarded based on the performance of only a portion of the charter holder’s students; and

• Performance is based on only two out of five assessments, so a charter holder’s students could fail to meet the standard for superior performance on three of five state assessments and still receive additional funding.

When taken together, it is possible that a charter holder could be awarded additional funding for superior performance while excluding a significant portion of the charter holder’s students on a significant number of assessments from the charter holder’s performance.

Additionally, the bill provides that a charter holder will receive additional funding if the charter holder has met the designated standard for three consecutive years. This language appears to raise the possibility that once a charter establishes eligibility for three consecutive years, they retain that eligibility in perpetuity. This means that the state continues to provide additional funding to the charter holder even if performance declines in subsequent years.
HB 1269 creates financial incentives for district’s to evade accountability for persistently low-performing campuses by turning them over to charter operators.

Districts can already contract with charter operators, high-performing or otherwise, to operate a district campus under current law. HB 1269, however, provides a financial incentive for districts to do so by providing the district with the charter operator’s supplemental funding while keeping the campus’ accountability rating with the district. Separating funding and accountability does not seem like a positive policy, but it is made even less so by HB 1269’s provision that the Commissioner cannot impose sanctions on a campus for unsatisfactory performance for three years if it has been turned over to a charter operator. This provision creates a financial incentive to evade the strict accountability sanctions and timeline that this committee and the legislature adopted last session in HB 1842.

HB 1269 establishes incentives for charters to address expulsions and provide DAEP/JJAEP services that districts are required to provide.

It is unclear why HB 1269 provides financial incentives for charters to properly handle expulsions and provide DAEP/JJAEP services that districts are required to provide. While the intent behind the provision is laudable, if there are existing issues with expulsions or the provision of these services at charters this issue should be examined in a comprehensive way by the legislature rather than providing incentives for a subset of charter holders.

Conclusion
In conclusion, we do not believe that HB 1269 represents an equitable solution to charter operators’ concerns regarding facilities funding. Moreover, while we appreciate Representative Villalba’s efforts to further advance charter quality, we are concerned that the award of supplemental funding proposed in the bill is based on a limited and inadequate set of criteria. This and other concerns identified above require us to respectfully oppose HB 1269.

Thank you for the opportunity to appear before you today.