

Bill No. CS for SB 1574

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Horne moved the following amendment:

Senate Amendment (with title amendment)

On page 2, line 30, through
page 3, line 17, delete those lines

and insert:

(3) APPLICATION; UNLAWFUL REPRISAL ~~PROPOSAL~~.--

(a) An application ~~A proposal~~ for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state. The district school board or the principal, teachers, parents, and/or the school advisory council at an existing public school, including a public school-within-a-school that is designated as a school by the district school board, shall submit any application ~~proposal~~ for converting the school to a charter school. An application submitted proposing to convert an existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the

Bill No. CS for SB 1574

Amendment No.

1 school, provided that a majority of the parents eligible to
2 vote participate in the ballot process, according to
3 procedures established by rules of the state board. A private
4 school, parochial school, or home education program shall not
5 be eligible for charter school status.

6 (b) No district school board, or district school board
7 employee who has control over personnel actions, shall take
8 unlawful reprisal against another district school board
9 employee because that employee is either directly or
10 indirectly involved with an application to establish a charter
11 school. As used in this subsection, the term "unlawful
12 reprisal" means an action taken by a district school board or
13 a school system employee against an employee who is directly
14 or indirectly involved in a lawful application to establish a
15 charter school, which occurs as a direct result of that
16 involvement, and which results in one or more of the
17 following: disciplinary or corrective action; adverse transfer
18 or reassignment, whether temporary or permanent; suspension,
19 demotion, or dismissal; an unfavorable performance evaluation;
20 a reduction in pay, benefits, or rewards; elimination of the
21 employee's position absent of a reduction in force as a result
22 of lack of moneys or work; or other adverse significant
23 changes in duties or responsibilities that are inconsistent
24 with the employee's salary or employment classification. The
25 following procedures shall apply to an alleged unlawful
26 reprisal which occurs as a consequence of an employee's direct
27 or indirect involvement with an application to establish a
28 charter school:

29 1. Within 60 days after a reprisal prohibited by this
30 subsection, an employee may file a complaint with the
31 Department of Education.

Bill No. CS for SB 1574

Amendment No. ____

1 2. Within 3 working days after receiving a complaint
2 under this section, the department shall acknowledge receipt
3 of the complaint and provide copies of the complaint and any
4 other relevant preliminary information available to each of
5 the other parties named in the complaint, which parties shall
6 each acknowledge receipt of such copies to the complainant.

7 3. If the department determines that the complaint
8 demonstrates reasonable cause to suspect that an unlawful
9 reprisal has occurred, the department shall conduct an
10 investigation to produce a fact-finding report.

11 4. Within 90 days after receiving the complaint, the
12 department shall provide the superintendent of schools of the
13 complainant's district and the complainant with a fact-finding
14 report that may include recommendations to the parties or
15 proposed resolution of the complaint. The fact-finding report
16 shall be presumed admissible in any subsequent or related
17 administrative or judicial review.

18 5. If the department determines that reasonable
19 grounds exist to believe that an unlawful reprisal has
20 occurred, is occurring, or is to be taken, and is unable to
21 conciliate a complaint within 60 days after receipt of the
22 fact-finding report, the department shall terminate the
23 investigation. Upon termination of any investigation, the
24 department shall notify the complainant and the superintendent
25 of schools of the termination of the investigation, providing
26 a summary of relevant facts found during the investigation and
27 the reasons for terminating the investigation. A written
28 statement under this paragraph is presumed admissible as
29 evidence in any judicial or administrative proceeding.

30 6. The department shall either contract with the
31 Division of Administrative Hearings under s. 120.65, or

Bill No. CS for SB 1574

Amendment No. ____

1 otherwise provide for a complaint for which the department
2 determines reasonable grounds exist to believe that an
3 unlawful reprisal has occurred, is occurring, or is to be
4 taken, and is unable to conciliate, to be heard by a panel of
5 impartial persons. Upon hearing the complaint, the panel must
6 make findings of fact and conclusions of law for a final
7 decision by the department.

8
9 It shall be an affirmative defense to any action brought
10 pursuant to this section that the adverse action was
11 predicated upon grounds other than, and would have been taken
12 absent, the employee's exercise of rights protected by this
13 section.

14 (c) In any action brought under this section for which
15 it is determined reasonable grounds exist to believe that an
16 unlawful reprisal has occurred, is occurring, or is to be
17 taken, the relief must include the following:

18 1. Reinstatement of the employee to the same position
19 held before the unlawful reprisal was commenced, or to an
20 equivalent position, or payment of reasonable front pay as
21 alternative relief.

22 2. Reinstatement of the employee's full fringe
23 benefits and seniority rights, as appropriate.

24 3. Compensation, if appropriate, for lost wages,
25 benefits, or other lost remuneration caused by the unlawful
26 reprisal.

27 4. Payment of reasonable costs, including attorney's
28 fees, to a substantially prevailing employee, or to the
29 prevailing employer if the employee filed a frivolous action
30 in bad faith.

31 5. Issuance of an injunction, if appropriate, by a

Bill No. CS for SB 1574

Amendment No. ____

1 court of competent jurisdiction.

2 6. Temporary reinstatement to the employee's former
3 position or to an equivalent position, pending the final
4 outcome on the complaint, if it is determined that the action
5 was not made in bad faith or for a wrongful purpose, and did
6 not occur after a district school board's initiation of a
7 personnel action against the employee which includes
8 documentation of the employee's violation of a disciplinary
9 standard or performance deficiency.

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12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 On page 1, line 3, after the first semicolon,

15

16 insert:

17 revising who is authorized to submit an
18 application to convert an existing public
19 school to a charter school; prohibiting
20 unlawful reprisals against district school
21 board employees as a result of direct or
22 indirect involvement in an application to
23 establish a charter school; establishing
24 procedures for reviewing and deciding alleged
25 unlawful reprisals;

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