

SENATE BILL 252

By Woodson

AN ACT to amend Tennessee Code Annotated, Title 49,
relative to local education agencies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 2, is amended by adding Sections 2 through 13 as a new, appropriately designated part.

SECTION 2. The general assembly finds that:

(1) LEAs should be encouraged to redesign their school systems and schools to develop innovative, creative and forward-thinking models that serve to increase student achievement and to better prepare students to meet the challenges and needs of today and the future; and

(2) To facilitate innovation and creativity in the redesign of school systems, LEAs need flexibility resulting from the waiver of certain state laws and regulations. However, flexibility must be accompanied by accountability and defined consequences if the redesigned system fails to produce the results envisioned.

SECTION 3. As used in this part, "innovative school district" includes any school district created according to this chapter. "Innovative school district" does not include any school district in existence in this state on the effective date of this act.

SECTION 4.

(a) Except as provided in Section 13, an LEA after the effective date of this act may convert to an innovative school district. To convert to an innovative school district, a local board of education shall request increased flexibility by waiver of certain state laws and rules and regulations by the commissioner of education in exchange for increased accountability and defined consequences through a contract with the state

board of education under Section 7. Such contract shall establish a framework of flexibility, accountability and consequences.

(b) The contract shall establish the flexibility the LEA is seeking by clearly identifying any state law, rule or regulation for which the LEA seeks a waiver from the commissioner. The LEA shall also state in its proposed contract the methods by which it intends to operate instead of those required by each law, rule or regulation sought to be waived. The commissioner is not authorized to waive regulatory or statutory requirements related to:

- (1) Federal and state civil rights;
- (2) Federal, state, and local health and safety;
- (3) Federal and state public records;
- (4) Immunizations;
- (5) Possession of weapons on school grounds;
- (6) Background checks and fingerprinting of personnel;
- (7) Federal and state special education services;
- (8) Student due process;
- (9) Parental rights;
- (10) Federal and state student assessment and accountability;
- (11) Open meetings; and
- (12) At least the same equivalent time of instruction as required in regular public schools.

(c) The accountability component of the contract shall include at least one (1) student achievement measure through which students and subgroups of students shall be assessed for performance. The achievement measures shall be applicable to the

grade or subgroup of students to which they are applied. The achievement measure may include:

- (1) High school graduation rates;
- (2) Dropout rates;
- (3) Performance on ACT or SAT tests;
- (4) Performance on Tennessee comprehensive assessment program (TCAP) examinations;
- (5) Performance on end of course assessments;
- (6) Participation and performance in advanced placement or international baccalaureate programs; and
- (7) Other achievement measures as agreed to by the LEA and the state board of education.

(d) The consequences component of the contract shall clearly set forth interventions or sanctions for failure to meet identified levels of achievement or for not attaining specified levels of progress or performance. The interventions or sanctions may include:

- (1) Any appropriate corrective action under § 49-1-602;
- (2) Rescission of the LEA's status as an innovative school district and return to the former method of governance; and
- (3) Other interventions or sanctions as agreed to by the LEA and the state board of education.

SECTION 5.

(a) Each LEA that elects to become an innovative school district and to request increased flexibility pursuant to this part shall develop a ten-year strategic plan that sets out the proposed innovative school district's vision and goals for the redesign of its

school system to improve the performance and achievement of its schools and students. The ten-year strategic plan shall cover the first five-year term of the contract and one (1) renewal period, if granted. The LEA's strategic plan and proposed contract shall:

(1) Clearly delineate the waivers of state law and regulations that the LEA is requesting;

(2) Specify performance goals and achievement standards to be met by the LEA, its schools and students, including subgroups of students, for which adequate yearly progress status is calculated each year in compliance with federal requirements under the No Child Left Behind Act of 2002, Pub.L. No. 107-110, 115 Stat. 1425 (2002), as amended; and

(3) Indicate the performance measures and benchmarks for each school that shall be used for evaluating and monitoring improvement, achievement and annual progress towards performance goals.

(b) The strategic plan shall incorporate, to the extent practicable, school improvement plans in effect for schools in the LEA.

SECTION 6. Prior to the submission of a proposed contract to the state department of education for evaluation, the local board of education shall schedule and conduct a public hearing for the purpose of providing an opportunity for full discussion and public input on the strategic plan and proposed contract. Additionally, the local board shall afford the public an opportunity to submit formal, written comments or suggestions regarding the LEA's flexibility requests and performance goals and their effect on each school. The local board of education shall provide notice of the public hearing:

(1) In a newspaper of general circulation in the county in which the LEA is located;

(2) On the LEA's web site; and

(3) By notice to each principal of a school in the LEA with instructions that each school shall distribute the notice to all teachers and staff members and to the parent or guardian of each student enrolled in the school.

SECTION 7.

(a) After receiving any written public input, conducting the public hearing and making revisions to the strategic plan and proposed contract as the local board of education deems appropriate and beneficial, the local board of education shall submit the strategic plan and proposed contract to the department of education for evaluation and recommendations. The strategic plan and proposed contract shall be submitted to the department of education on or before September 1 of the year preceding the year in which the conversion shall occur. The strategic plan and proposed contract shall be posted on the LEA's web site.

(b) The local board of education and the department may negotiate terms of the contract, including, but not limited to, the accountability, flexibility and consequences components of the contract. The accountability and consequences components of the contract shall be clear and unequivocal in specifying the achievement measures to be used in assessing the performance of schools, students and subgroups of students, in the statutes and rules for which the LEA is seeking a waiver, and in specifying interventions or sanctions for failure to meet identified levels of achievement or for not making specified levels of progress.

(c) Following its negotiations with the department, the LEA shall submit its strategic plan and proposed contract to the state board of education as soon as practicable, but no later than December 1 of the year preceding the year in which the conversion is to occur.

(d) The department shall make a recommendation to the state board as to whether each term of the proposed contract should be approved by the state board. If the department disagrees with a term of the contract, it shall state with particularity its disagreement.

(e)

(1) The state board shall have the authority to approve or deny approval of the proposed contract. In making its decision, the state board shall give due consideration to the recommendation and input of the department of education. The state board shall make its decision within sixty (60) days of receipt of the contract.

(2) If the state board denies approval of the contract, the LEA may work with the department on revisions and resubmission to the state board. A contract shall be resubmitted within thirty (30) days of the denial of the state board.

(3) The decision of the state board shall be final and not subject to appeal.

(f) If the state board approves a contract, then the local board of education may apply to the commissioner of education for a waiver of any state statute or state board rule or regulation that was identified as impinging on the increased flexibility for which the LEA contracted with the state board. The goal for each waiver or variance shall be improvement of school and student performance.

SECTION 8.

(a) Upon approval by the state board of an LEA's proposed contract, the state board and the LEA shall execute the contract, which shall be for a term of five (5) years. A contract may be renewed or modified and renewed at the end of any five-year period for another five-year period. The terms of a contract may provide for automatic

extension of such contract if an LEA has met its accountability requirements. The conversion of the LEA to an innovative school district shall be effective on July 1 next following the execution of the contract by all parties.

(b) The contract may be amended during its term only if such amendment is warranted because of unforeseen circumstances. Any amendment shall be approved by the state board and the local board of education.

SECTION 9.

(a) If an LEA converts to an innovative school district, then the LEA's board of education at the time of the conversion shall be the board of education of the innovative school district. The board members shall be elected in the same manner and at the same times as required under § 49-2-201 or any private act applicable to the LEA. Board members shall have all the powers and duties assigned to them by general law or any applicable private act.

(b) If an LEA converts to an innovative school district, then its board of education shall employ a director of schools in accordance with § 49-2-203 and § 49-2-301 and assign the director of schools duties as specified in § 49-2-301 and other general law.

SECTION 10.

(a) If a county school system converts to an innovative school district, then for budgeting and funding purposes it shall be considered as a county school district. The county legislative body shall continue to be responsible for levying and collecting taxes to fund the county's share of the school district's budget. Taxes levied and collected by the county for school purposes shall be apportioned according to § 49-3-316.

(b) If an LEA converts to an innovative school district and a city legislative body levies taxes to fund the LEA at the time of conversion, the city legislative body shall

continue to be responsible for levying and collecting taxes for the innovative school district.

SECTION 11.

(a) If an LEA converts to an innovative school district, then the boundaries of the LEA on the date of conversion shall be the boundaries of the innovative school district and such boundaries shall remain fixed, unless modified by the general assembly. Notwithstanding any general law or private act to the contrary, no school system that is contiguous to an innovative school district may expand to take into the system any portion of the area served by the innovative school district. If a city annexes territory that is within an innovative school district, the innovative school district shall be the public school system that students residing in the annexed territory shall be eligible to attend.

(b) If a city that levies taxes to fund a school system annexes territory within an innovative school district that is not the city funded school system, then all school funds for current operation and maintenance purposes collected by the city shall be apportioned between the city funded school system and the innovative school district on the ratio of the WFTEADA of those students residing in the annexed territory within the innovative school district to the WFTEADA of students in the city funded school system plus the students residing in the annexed territory.

SECTION 12. The office of education accountability shall monitor an innovative school district's progress toward meeting its performance goals in its contract and shall notify the department if an innovative school district is not in compliance with its performance goals. The department shall provide guidance to innovative school districts not meeting their yearly progress goals.

SECTION 13. In fiscal years 2011-2012 and 2012-2013, only county school systems may convert to innovative school districts. No more than a total of five (5) county school

systems may enter into a contract with the state board of education to convert to innovative school districts in those fiscal years.

SECTION 14. The state board of education and the department of education are authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 15. This act shall take effect upon becoming a law, the public welfare requiring it.