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**TESTIMONY OF ERIC HARTMAN
ON BEHALF OF TEXAS AFT
REGARDING SB 738 (“Alternative Methods of Operating Public Schools”)
BEFORE THE SENATE EDUCATION COMMITTEE
MARCH 22, 2011**

Texas AFT opposes SB 738 because for many districts and campuses it would eliminate important state quality standards and safeguards. The bill appears to be based on belief rather than any evidence that exemptions from state standards would be beneficial. SB 738 would move much of our school system in the direction of a charter model of deregulation that is not correlated with improved student outcomes.

Automatic “home rule” exemption from state quality standards

From the standpoint of the classroom teachers and others whose hard work makes their school districts exemplary, it is ironic that this bill would “reward” their districts for exemplary status by wiping out quality standards that provide the foundation for exemplary performance. The bill makes a “home rule” charter district automatically exempt from educator certification standards under Chapter 21 of the Education Code. It eliminates protection against cronyism and coercion under Sections 21.407 and Section 21.408 of the Education Code. It eliminates the right of education employees to have a stronger voice in educational policy through voluntary payroll deduction of their dues to the professional organization of their choice under Section 22.001. It eliminates any applicability of class-size limits to their school district.

In addition, another set of state standards and safeguards now specifically applicable to home-rule districts under Section 12.013 would become subject to waiver under SB 738. What valid purpose does it serve to authorize waiver of requirements relating to the Public Education Information Management System, which is a cornerstone of accountability? The same question applies to the provision for waivers from requirements relating to everything from criminal history records to high school graduation to health and safety to prekindergarten and even the computation of state aid to districts. (The fiscal note for SB 738 points out that the latter provision could have significant state cost and negative net revenue impact of as much as \$120 million per year if the commissioner granted waivers to all the districts that would become eligible for “home rule” status because of exemplary accountability ratings.)

The elimination of requirements for stakeholder involvement in development of the home-rule charter for these districts also is unwise. Texas AFT believes the legislature got it right in 1995 when it said the home-rule option should be one that is carefully developed through a charter commission and should ultimately be subject to voter approval.

Shift of authority from elected school board to superintendent in creation of charter campuses

Texas AFT strongly supports the availability of the campus-charter option for parents and teachers seeking latitude to innovate. Several of our local affiliates are deeply involved in the development of campus charters that would take advantage of the opportunity afforded by this statute. But we object to the provision of SB 738 that gives superintendents independent power to create campus charters. We believe that elected school boards, accountable to district voters, should retain this authority.

Authority for the commissioner to order campus-charter conversion

The bill would give the commissioner of education the authority to order a school board to convert a campus to charter status after two years of “unacceptable” accountability ratings or to reconstitute a campus via charter conversion as an alternative to closure, alternative management, or repurposing. This provision bypasses the current method of campus-charter authorization, which provides for parents and classroom teachers at the campus to have a major role in proposing the charter conversion and for the school board to have authority to grant charter status. We believe this provision at a minimum needs to be reworked to preserve a role for parents and teachers in this process, especially regarding the applicability of state laws and rules to the prospective charter campus.

Ample alternatives already available under current law

The Education Code already provides school districts with wide latitude for innovation, not only through campus charters but also by way of the general grant of authority to school boards under Section 11.151(b) and through waivers. Section 11.151(b), as enacted in the rewrite of the Education Code in 1995, reserves to school boards all powers not retained by the state. Section 7.056 of the Education Code, the main waiver statute, widens districts’ latitude even more. This section grants the commissioner extensive waiver authority, particularly for low-performing campuses. The list of provisions that cannot be waived for low-performing campuses is extremely limited. The commissioner under this provision (Subsection (f)) can waive any law or rule other than:

- (1) a prohibition on conduct that constitutes a criminal offense;
- (2) a requirement imposed by federal law or rule;
- (3) public school accountability;
- (4) educator certification standards and the rights and benefits afforded educators under Chapter 21 and 22 of the Education Code, which include contract rights and rights to planning periods, a duty-free lunch period, and health benefits and personal leave, among other basic state standards.

Current law strikes an appropriate balance between prudent state regulation and flexibility for school districts. Texas AFT asks you not to upset that balance by turning back the clock to an era before educational quality standards and employee safeguards became established in state law.