

HOUSE BILL 3540

By Matheny

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 13, relative to charter schools.

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

SECTION 1. Tennessee Code Annotated, Section 49-13-104, is amended by adding the following language as new, appropriately designated subdivisions:

() "Control", "controlling" or "controlled by" means the possession, direct or indirect, of the authority to direct or cause the direction of the management and policies of an entity;

() "Foreign" means a country or jurisdiction outside of any state or territory of the United States;

() "Foreign national" means an individual who is not a citizen of the United States;

SECTION 2. Tennessee Code Annotated, Section 49-13-107, is amended by adding the following language as new subsection (c):

(c) A charter school application and any renewal application under § 49-13-122 shall include a disclosure of all sources of private funding, if any, and all funds from foreign sources, if any, including, but not limited to, gifts from foreign governments, foreign legal entities and domestic entities affiliated with either foreign governments or foreign legal entities.

SECTION 3. Tennessee Code Annotated, Section 49-13-108, is amended by adding the following language as new subsection (c):

(c) A chartering authority may not approve a charter school application, if:

(1) The proposed charter school plans to staff positions for teachers, administrators, ancillary support personnel or other employees by utilizing or otherwise relying on non-immigrant foreign worker H1B or J1 visa programs in excess of three and one-half percent (3.5%) of the total number of positions at any single school location for any school year;

(2) The sponsor, governing body or proposed school administrators are affiliated with, have previously been affiliated with, employed by or are otherwise connected to another charter school or schools in the United States or its territories that are or have been subjects of investigation by any government agencies for questionable use of non-immigrant foreign worker visa programs;

(3) The sponsor, governing body or proposed school administrators are affiliated with, have previously been affiliated with, employed by or are otherwise connected to another charter school or schools in the United States or its territories that have used more than two (2) non-immigrant foreign worker recruits in any school year;

(4) The application shows that the sponsor, governing body or a member or members of the sponsor or governing body intend to or are attempting to circumvent annual non-immigrant foreign worker visa programs by affiliation with programs of higher education or other institutions that by federal law are exempted from a visa program's annual caps; or

(5) The sponsor or governing body of the proposed charter school is controlled by foreign nationals or any of the sponsor or governing board members are affiliated with, have been previously affiliated with, employed by or are otherwise connected to another charter school or schools in the United States or its territories that are or have been controlled by foreign nationals.

SECTION 4. Tennessee Code Annotated, Section 49-13-110, is amended by adding the following language as new subsection (d):

(d) A charter school shall submit a request for approval to the chartering authority before employment of a non-immigrant foreign worker who is seeking either alternative licensure or an H1B or a J1 non-immigrant visa, or both. The chartering authority shall grant permission for the employment of the non-immigrant foreign worker only if the charter school makes a satisfactory showing of efforts to recruit lawful permanent residents of the United States to fill the position and the unavailability of such persons to fill the position; except, that a chartering authority that is an LEA shall not require this showing, if the LEA itself uses non-immigrant foreign worker visa programs to fill in excess of three and one-half percent (3.5%) of its staff.

SECTION 5. Tennessee Code Annotated, Section 49-13-111(e), is amended by designating the existing language as subdivision (1) and by adding the following language as new subdivision (2):

(2) The governing body of a charter school shall not approve and a charter school shall not enter into a contract for goods or services, except as provided in Section 3 and as permitted in § 49-13-111(i), with an individual who is a foreign national or an entity that is controlled by foreign nationals.

SECTION 6. Tennessee Code Annotated, Section 49-13-122(a), is amended by adding the following language as new subdivision (4):

(4) Performed any of the acts that are conditions for nonapproval of the charter school under § 49-13-108(c).

SECTION 7. Nothing in this act shall be construed to abridge or impair a contract or agreement entered into by the sponsor or governing body of a charter school for the operation

of the school before the effective date of this act. Any such contract or agreement shall remain in full force and effect until the expiration of the contract or agreement.

SECTION 8. This act shall take effect July 1, 2012, the public welfare requiring it.