

1-1 By: Hughes S.B. No. 487  
 1-2 (In the Senate - Filed January 27, 2021; March 9, 2021, read  
 1-3 first time and referred to Committee on Education; May 11, 2021,  
 1-4 reported favorably by the following vote: Yeas 10, Nays 1;  
 1-5 May 11, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Hall	X			
1-11 Hughes	X			
1-12 Menéndez		X		
1-13 Paxton	X			
1-14 Perry	X			
1-15 Powell	X			
1-16 Schwertner	X			
1-17 West	X			

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the applicability of certain laws to open-enrollment  
 1-22 charter schools.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 12.1058, Education Code, is amended by  
 1-25 amending Subsection (c) and adding Subsections (d), (d-1), (d-2),  
 1-26 (d-3), and (d-4) to read as follows:

1-27 (c) Notwithstanding Subsection (a) or (b), an  
 1-28 open-enrollment charter school operated by a tax exempt entity as  
 1-29 described by Section 12.101(a)(3) is not considered to be a  
 1-30 political subdivision, local government, or local governmental  
 1-31 entity unless:

1-32 (1) a [the applicable] statute specifically states  
 1-33 that the statute applies to an open-enrollment charter school; or

1-34 (2) a provision in this chapter states that a specific  
 1-35 statute applies to an open-enrollment charter school.

1-36 (d) Except as provided by Section 12.103(c), a political  
 1-37 subdivision shall consider an open-enrollment charter school a  
 1-38 school district for purposes of zoning, project permitting,  
 1-39 platting and replatting processes, business licensing, franchises,  
 1-40 utility services, eminent domain, signage, subdivision regulation,  
 1-41 property development projects, the requirements for posting bonds  
 1-42 or securities, contract requirements, land development standards  
 1-43 as provided by Section 212.902, Local Government Code, tree and  
 1-44 vegetation regulations, regulations of architectural features of a  
 1-45 structure, construction of fences, landscaping, garbage disposal,  
 1-46 noise levels, fees or other assessments, and construction or site  
 1-47 development work. An open-enrollment charter school does not have  
 1-48 the power of eminent domain.

1-49 (d-1) A political subdivision may not take any action that  
 1-50 prohibits an open-enrollment charter school from operating a public  
 1-51 school campus, educational support facility, athletic facility, or  
 1-52 administrative office within the political subdivision's  
 1-53 jurisdiction or on any specific property located within the  
 1-54 jurisdiction of the political subdivision that it could not take  
 1-55 against a school district. A political subdivision shall grant  
 1-56 approval in the same manner and follow the same timelines as if the  
 1-57 charter school were a school district located in that political  
 1-58 subdivision's jurisdiction.

1-59 (d-2) This section applies to both owned and leased property  
 1-60 of the open-enrollment charter school under Section 12.128.

1-61 (d-3) Except as provided by this section, this section does

2-1 not affect the authority granted by state law to a political  
 2-2 subdivision to regulate an open-enrollment charter school  
 2-3 regarding health and safety ordinances.

2-4 (d-4) In this section, "political subdivision" does not  
 2-5 include a school district.

2-6 SECTION 2. Section 212.902, Local Government Code, is  
 2-7 amended to read as follows:

2-8 Sec. 212.902. SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER  
 2-9 SCHOOL LAND DEVELOPMENT STANDARDS. (a) This section applies to an  
 2-10 agreement [~~agreements~~] between a school district or  
 2-11 open-enrollment charter school [~~districts~~] and a [~~any~~]  
 2-12 municipality which has annexed territory for limited purposes.

2-13 (b) On request by a school district or open-enrollment  
 2-14 charter school, a municipality shall enter an agreement with the  
 2-15 board of trustees of the school district or the governing body of  
 2-16 the open-enrollment charter school to establish review fees, review  
 2-17 periods, and land development standards ordinances and to provide  
 2-18 alternative water pollution control methodologies for school  
 2-19 buildings constructed by the school district or open-enrollment  
 2-20 charter school. The agreement shall include a provision exempting  
 2-21 the district or charter school from all land development ordinances  
 2-22 in cases where the district or charter school is adding temporary  
 2-23 classroom buildings on an existing school campus.

2-24 (c) If the municipality and the school district or  
 2-25 open-enrollment charter school do not reach an agreement on or  
 2-26 before the 120th day after the date on which the municipality  
 2-27 receives the district's or charter school's request for an  
 2-28 agreement, proposed agreements by the [~~school~~] district or charter  
 2-29 school and the municipality shall be submitted to an independent  
 2-30 arbitrator appointed by the presiding district judge whose  
 2-31 jurisdiction includes the [~~school~~] district or charter school. The  
 2-32 arbitrator shall, after a hearing at which both the [~~school~~]  
 2-33 district or charter school and the municipality make presentations  
 2-34 on their proposed agreements, prepare an agreement resolving any  
 2-35 differences between the proposals. The agreement prepared by the  
 2-36 arbitrator will be final and binding upon both the [~~school~~]  
 2-37 district or charter school and the municipality. The cost of the  
 2-38 arbitration proceeding shall be borne equally by the [~~school~~]  
 2-39 district or charter school and the municipality.

2-40 (d) A school district or open-enrollment charter school  
 2-41 that requests an agreement under this section, at the time the  
 2-42 district or charter school [~~it~~] makes the request, shall send a copy  
 2-43 of the request to the commissioner of education. At the end of the  
 2-44 120-day period, the requesting district or charter school shall  
 2-45 report to the commissioner the status or result of negotiations  
 2-46 with the municipality. A municipality may send a separate status  
 2-47 report to the commissioner. The district or charter school shall  
 2-48 send to the commissioner a copy of each agreement between the  
 2-49 district or charter school and a municipality under this section.

2-50 (e) In this section:

2-51 (1) [~~r~~] "Land [~~land~~] development standards" includes  
 2-52 impervious cover limitations, building setbacks, floor to area  
 2-53 ratios, building heights and coverage, water quality controls,  
 2-54 landscaping, development setbacks, compatibility standards,  
 2-55 traffic analyses, including traffic impact analyses, parking  
 2-56 requirements, signage requirements, and driveway cuts, if  
 2-57 applicable.

2-58 (2) "Open-enrollment charter school" means a school  
 2-59 granted a charter under Subchapter C, D, or E, Chapter 12, Education  
 2-60 Code.

2-61 (f) Nothing in this section shall be construed to limit the  
 2-62 applicability of or waive fees for fire, safety, health, or  
 2-63 building code ordinances of the municipality prior to or during  
 2-64 construction of school buildings, nor shall any agreement waive any  
 2-65 fee or modify any ordinance of a municipality for an  
 2-66 administration, service, or athletic facility proposed for  
 2-67 construction by a school district or open-enrollment charter  
 2-68 school.

2-69 SECTION 3. Section 395.022(b), Local Government Code, is

3-1 amended to read as follows:

3-2 (b) A school district and an open-enrollment charter school  
3-3 are [is] not required to pay impact fees imposed under this chapter  
3-4 unless the board of trustees of the district or the governing body  
3-5 of the charter school consents to the payment of the fees by  
3-6 entering a contract with the political subdivision that imposes the  
3-7 fees. The contract may contain terms the board of trustees or  
3-8 governing body considers advisable to provide for the payment of  
3-9 the fees. This section applies only to an open-enrollment charter  
3-10 school campus constructed on land that:

3-11 (1) is owned by the charter holder or the charter  
3-12 holder's parent nonprofit entity; and

3-13 (2) does not include any other uses.

3-14 SECTION 4. Section 552.053(b), Local Government Code, is  
3-15 amended to read as follows:

3-16 (b) The following may be exempt:

3-17 (1) this state;

3-18 (2) a county;

3-19 (3) a municipality; or

3-20 (4) [a] school districts and open-enrollment charter  
3-21 schools [district].

3-22 SECTION 5. An exemption granted to a school district under  
3-23 Section 552.053(b)(4), Local Government Code, as that subdivision  
3-24 existed before the effective date of this Act, automatically  
3-25 extends to all open-enrollment charter schools located in the  
3-26 municipality after the effective date of this Act unless the  
3-27 municipality repeals the exemption before the effective date of  
3-28 this Act.

3-29 SECTION 6. This Act takes effect immediately if it receives  
3-30 a vote of two-thirds of all the members elected to each house, as  
3-31 provided by Section 39, Article III, Texas Constitution. If this  
3-32 Act does not receive the vote necessary for immediate effect, this  
3-33 Act takes effect September 1, 2021.

3-34 \* \* \* \* \*