

By: Bohac

H.B. No. 3375

A BILL TO BE ENTITLED

AN ACT

1
2 relating to ownership and control of property acquired with state
3 funds by the charter holder of an open-enrollment charter school.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 12.128, Education Code, is amended by
6 adding Subsections (f), (g), (h), (i), (j), and (k) to read as
7 follows:

8 (f) Notwithstanding Subsection (a), real or personal
9 property acquired, improved, or maintained using state funds is
10 considered to be public property only to the extent state funds were
11 used to pay for the acquisition, improvement, or maintenance. The
12 use of state funds for acquisition, improvement, or maintenance of
13 property must be detailed in the accounting and property records of
14 the charter holder and the charter school. If the property is
15 acquired with federal funds, this subsection may be preempted
16 wholly or partly by federal law.

17 (g) The property of an open-enrollment charter school used
18 for a purpose authorized by Subsection (a)(3) is considered to be
19 owned by the charter holder, regardless of the source of funds used
20 to acquire the property. The charter holder retains title to the
21 property, exercises complete control over the property, and is
22 entitled to all use and benefit from the property. Property
23 acquired, improved, or maintained using both state funds and other
24 funds is considered mixed public and private property, and is

1 subject to all requirements for public property under this section.

2 (h) A charter holder shall include an exhibit identifying
3 the capitalized assets of the charter holder and the ownership
4 interest of all parties for all capitalized real and personal
5 property held by the charter holder or acquired, improved, or
6 maintained by the charter holder during the term of the charter in
7 the annual audit report of the charter holder.

8 (i) The governing body and officers of the charter holder
9 shall ensure that:

10 (1) public property is properly and accurately
11 documented in the accounting and property records of the charter
12 holder and the open-enrollment charter school; and

13 (2) the accounting and property records of the charter
14 holder separately disclose the cost basis and accumulated
15 depreciation of all public property as determined by the
16 commissioner or designee, and all other property held, acquired,
17 improved, or maintained by the charter holder.

18 (j) If, after a due diligence review of the exhibits and
19 other disclosures in the annual audit report filed by the charter
20 holder, the commissioner determines that the exhibit identifying
21 capitalized assets contains errors, the commissioner may require a
22 charter holder to engage, at the charter holder's expense, an
23 independent audit firm for purposes of reviewing and confirming the
24 classification of real and personal property consistent with
25 applicable authoritative standards.

26 (k) Subject to the rights of any secured creditor or valid
27 lien holder and in accordance with Subsection (e), on revocation,

1 expiration, or surrender of the charter, dissolution of the charter
2 holder, or final loss of exempt status under Section 501(c)(3),
3 Internal Revenue Code of 1986, the charter holder shall:

4 (1) reimburse the state in a manner prescribed by the
5 commissioner for the current value of the public's ownership
6 interest in the capitalized assets disclosed in the exhibit
7 prepared under Subsection (h);

8 (2) transfer title to the state in a manner prescribed
9 by the commissioner and in accordance with the rules of the Internal
10 Revenue Service; or

11 (3) transfer title to another charter holder subject
12 to the consent and approval of the commissioner.

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2015.