

By: Deshotel

H.B. No. 3155

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 12.1058, Education Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Notwithstanding Subsection (a) or (b), an open-enrollment charter school operated by a tax exempt entity as described by Section 12.101(a)(3) is not considered to be a political subdivision, local government, or local governmental entity unless a [the applicable] statute specifically states that the statute applies to an open-enrollment charter school.

(d) Except as provided by Section 12.103(c), a municipality shall consider an open-enrollment charter school a school district for purposes of zoning, permitting, code compliance, and development.

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

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

1           (b) On request by a school district or open-enrollment  
2 charter school, a municipality shall enter an agreement with the  
3 board of trustees of the school district or the governing body of  
4 the open-enrollment charter school to establish review fees, review  
5 periods, and land development standards ordinances and to provide  
6 alternative water pollution control methodologies for school  
7 buildings constructed by the school district or open-enrollment  
8 charter school. The agreement shall include a provision exempting  
9 the district or charter school from all land development ordinances  
10 in cases where the district or charter school is adding temporary  
11 classroom buildings on an existing school campus.

12           (c) If the municipality and the school district or  
13 open-enrollment charter school do not reach an agreement on or  
14 before the 120th day after the date on which the municipality  
15 receives the district's or charter school's request for an  
16 agreement, proposed agreements by the [~~school~~] district or charter  
17 school and the municipality shall be submitted to an independent  
18 arbitrator appointed by the presiding district judge whose  
19 jurisdiction includes the [~~school~~] district or charter school. The  
20 arbitrator shall, after a hearing at which both the [~~school~~]  
21 district or charter school and the municipality make presentations  
22 on their proposed agreements, prepare an agreement resolving any  
23 differences between the proposals. The agreement prepared by the  
24 arbitrator will be final and binding upon both the [~~school~~]  
25 district or charter school and the municipality. The cost of the  
26 arbitration proceeding shall be borne equally by the [~~school~~]  
27 district or charter school and the municipality.

1           (d) A school district or open-enrollment charter school  
2 that requests an agreement under this section, at the time the  
3 district or charter school [~~it~~] makes the request, shall send a copy  
4 of the request to the commissioner of education. At the end of the  
5 120-day period, the requesting district or charter school shall  
6 report to the commissioner the status or result of negotiations  
7 with the municipality. A municipality may send a separate status  
8 report to the commissioner. The district or charter school shall  
9 send to the commissioner a copy of each agreement between the  
10 district or charter school and a municipality under this section.

11           (e) In this section:

12                 (1) [~~7~~] "Land [~~land~~] development standards" includes  
13 impervious cover limitations, building setbacks, floor to area  
14 ratios, building heights and coverage, water quality controls,  
15 landscaping, development setbacks, compatibility standards,  
16 traffic analyses including traffic impact analyses, parking  
17 requirements, signage requirements, and driveway cuts, if  
18 applicable.

19                 (2) "Open-enrollment charter school" means a school  
20 granted a charter under Subchapter D or E, Chapter 12, Education  
21 Code.

22           (f) Nothing in this section shall be construed to limit the  
23 applicability of or waive fees for fire, safety, health, or  
24 building code ordinances of the municipality prior to or during  
25 construction of school buildings, nor shall any agreement waive any  
26 fee or modify any ordinance of a municipality for an  
27 administration, service, or athletic facility proposed for

1 construction by a school district or open-enrollment charter  
2 school.

3 SECTION 3. Chapter 250, Local Government Code, is amended  
4 by adding Section 250.009 to read as follows:

5 Sec. 250.009. REGULATION OF OPEN-ENROLLMENT CHARTER  
6 SCHOOLS. (a) In this section, "open-enrollment charter school"  
7 means a school granted a charter under Subchapter D or E, Chapter  
8 12, Education Code.

9 (b) A municipality, county, or political subdivision may  
10 not enact or enforce an ordinance, order, regulation, resolution,  
11 rule, or policy that prohibits an open-enrollment charter school  
12 from operating at any location or within any zoning district in the  
13 municipality, county, or political subdivision.

14 (c) This section does not otherwise affect the authority  
15 granted by state law to a municipality, county, or political  
16 subdivision to regulate an open-enrollment charter school.

17 SECTION 4. Section 395.022(b), Local Government Code, is  
18 amended to read as follows:

19 (b) A school district and an open-enrollment charter school  
20 are [is] not required to pay impact fees imposed under this chapter  
21 unless the board of trustees of the district or the governing body  
22 of the charter school consents to the payment of the fees by  
23 entering a contract with the political subdivision that imposes the  
24 fees. The contract may contain terms the board of trustees or  
25 governing body considers advisable to provide for the payment of  
26 the fees.

27 SECTION 5. Section 552.053, Local Government Code, is

1 amended by amending Subsection (b) and adding Subsections (b-1) and  
2 (b-2) to read as follows:

3 (b) The following may be exempt:

4 (1) this state;

5 (2) a county;

6 (3) a municipality; or

7 (4) [~~a~~] school districts and open-enrollment charter  
8 schools [~~district~~].

9 (b-1) For purposes of an exemption granted under Subsection  
10 (b)(4), the exemption must be granted to both school districts and  
11 open-enrollment charter schools.

12 (b-2) For purposes of this section, "open-enrollment  
13 charter school" means a school granted a charter under Subchapter D  
14 or E, Chapter 12, Education Code.

15 SECTION 6. An exemption granted to a school district under  
16 Section 552.053(b)(4), Local Government Code, as that section  
17 existed before the effective date of this Act, automatically  
18 extends to all open-enrollment charter schools located in the  
19 municipality after the effective date of this Act unless the  
20 municipality repeals the exemption before the effective date of  
21 this Act.

22 SECTION 7. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2019.

1 COMMITTEE AMENDMENT NO. 1

2 Amend H.B. 3155 (introduced version) by striking SECTION 3 of  
3 the bill (page 4, lines 3-16) and renumbering subsequent SECTIONS  
4 accordingly.

5 Dutton