87R9596 JES-F

By:  Bettencourt S.B. No. 1362

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting public schools from leasing, owning, or having a business interest in certain entities and real property associated with those entities.

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

SECTION 1.  Subchapter E, Chapter 45, Education Code, is amended by adding Section 45.116 to read as follows:

Sec. 45.116.  OWNERSHIP OF OR BUSINESS INTEREST IN CERTAIN ENTITIES AND PROPERTY PROHIBITED. (a) In this section:

(1)  "Affiliate" has the meaning assigned by Section 1.002, Business Organizations Code.

(2)  "Business interest" means owning or controlling, directly or indirectly, more than a 10 percent interest in a business entity.

(b)  This section does not apply if the commissioner determines that a business interest in an entity or the lease or ownership of real property, directly or indirectly through an affiliate, by a school district or open-enrollment charter school is used primarily for classroom space or serves a public purpose.

(c)  A school district or open-enrollment charter school may not, directly or indirectly through an affiliate, including an affiliated nonprofit corporation, have a business interest in an entity or lease or own real property in this state associated with an entity described by the North American Industry Classification System (NAICS) in any of the following sector codes:

(1)  Sector 53: Real Estate and Rental and Leasing;

(2)  Sector 71: Arts, Entertainment, and Recreation; or

(3)  Sector 72: Accommodation and Food Services.

(d)  This section does not prohibit or restrict a school district or open-enrollment charter school from:

(1)  leasing or otherwise providing real property or a facility that the district or school owns or leases to an individual or entity for use by that individual or entity if the district or school is not prohibited from owning or leasing the real property or facility; or

(2)  entering into a lease or other financing arrangement for district or school property provided by other law, including with a public facility corporation created under Chapter 303, Local Government Code.

(e)  The commissioner may adopt rules necessary to implement this section.

SECTION 2. (a) The change in law made by this Act applies only to real property leased or acquired by a school district or open-enrollment charter school on or after the effective date of this Act.

(b)  The change in law made by this Act applies to a business interest in an entity acquired by a school district or open-enrollment charter school before, on, or after the effective date of this Act. Except as provided by Subsection (c) of this section, a school district or open-enrollment charter school subject to Section 45.116, Education Code, as added by this Act, shall divest all business interest in an entity described by that section not later than September 1, 2026, unless the commissioner of education determines that the business interest serves a public purpose in accordance with Section 45.116(b), Education Code, as added by this Act.

(c)  A school district or open-enrollment charter school subject to Section 45.116, Education Code, as added by this Act, that owns a natatorium that is associated with an entity that the district or school must divest under Subsection (b) of this section may retain ownership of the natatorium and may provide for access between the natatorium and the associated entity, so long as the district or school divests the business interest in the associated entity in accordance with Subsection (b) of this section.

SECTION 3.  This Act takes effect September 1, 2021.