

By: Dutton

H.B. No. 3279

A BILL TO BE ENTITLED

AN ACT

relating to the approval of open-enrollment charter schools and the applicability of certain state and local 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:

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

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

(d) Except as provided by Section 12.103(c), a municipality, county, special purpose district, or political subdivision shall consider an open-enrollment charter school a school district for purposes of zoning, permitting, plat approvals, fees or other assessments, construction or site development work, code compliance, development, and any municipality, county, special purpose district, or political subdivision approval in the

1 same manner and following the same timelines as if the charter  
2 school were a school district or state-owned facility located in  
3 that local government's jurisdiction.

4 SECTION 2. Subchapter D, Chapter 12, Education Code, is  
5 amended by adding Section 12.1102 to read as follows:

6 Sec. 12.1102. APPEAL OF APPLICATION SELECTION  
7 DETERMINATION. (a) This section applies only if the charter  
8 application selection process includes:

9 (1) scoring criteria and procedures for use of the  
10 criteria by an external application review panel selected by the  
11 commissioner; and

12 (2) selection criteria that include the minimum score  
13 necessary for an applicant to be eligible for selection.

14 (b) The State Board of Education shall adopt procedures for  
15 the appeal of an application selection determination made based on  
16 the submission of an application under a process described by  
17 Subsection (a).

18 (c) The procedures adopted under this section must provide  
19 for an applicant who scores within 10 percentage points of the  
20 minimum score necessary for an applicant to be eligible for  
21 selection to appeal to the State Board of Education a score  
22 determined by the external application review panel.

23 (d) The determination of the State Board of Education in an  
24 appeal under the procedures adopted under this section is final.

25 (e) If the charter applicant prevails in an appeal to the  
26 State Board of Education, the commissioner shall consider the  
27 applicant's application.

1 SECTION 3. Section 212.902, Local Government Code, is  
2 amended to read as follows:

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

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

19 (c) If the municipality and the school district or  
20 open-enrollment charter school do not reach an agreement on or  
21 before the 120th day after the date on which the municipality  
22 receives the district's or charter school's request for an  
23 agreement, proposed agreements by the [~~school~~] district or charter  
24 school and the municipality shall be submitted to an independent  
25 arbitrator appointed by the presiding district judge whose  
26 jurisdiction includes the [~~school~~] district or charter school. The  
27 arbitrator shall, after a hearing at which both the [~~school~~]

1 district or charter school and the municipality make presentations  
2 on their proposed agreements, prepare an agreement resolving any  
3 differences between the proposals. The agreement prepared by the  
4 arbitrator will be final and binding upon both the [~~school~~]  
5 district or charter school and the municipality. The cost of the  
6 arbitration proceeding shall be borne equally by the [~~school~~]  
7 district or charter school and the municipality.

8 (d) A school district or open-enrollment charter school  
9 that requests an agreement under this section, at the time the  
10 district or charter school [~~it~~] makes the request, shall send a copy  
11 of the request to the commissioner of education. At the end of the  
12 120-day period, the requesting district or charter school shall  
13 report to the commissioner the status or result of negotiations  
14 with the municipality. A municipality may send a separate status  
15 report to the commissioner. The district or charter school shall  
16 send to the commissioner a copy of each agreement between the  
17 district or charter school and a municipality under this section.

18 (e) In this section:

19 (1) [~~r~~] "Land [~~land~~] development standards" includes  
20 impervious cover limitations, building setbacks, floor to area  
21 ratios, building heights and coverage, water quality controls,  
22 landscaping, development setbacks, compatibility standards,  
23 traffic analyses including traffic impact analyses, vehicle  
24 queuing, parking requirements, signage requirements, and driveway  
25 cuts, if applicable.

26 (2) "Open-enrollment charter school" means a school  
27 granted a charter under Subchapter D or E, Chapter 12, Education

1 Code.

2 (f) Nothing in this section shall be construed to limit the  
3 applicability of or waive fees for fire, safety, health, or  
4 building code ordinances of the municipality prior to or during  
5 construction of school buildings, nor shall any agreement waive any  
6 fee or modify any ordinance of a municipality for an  
7 administration, service, or athletic facility proposed for  
8 construction by a school district or open-enrollment charter  
9 school.

10 SECTION 4. Chapter 250, Local Government Code, is amended  
11 by adding Section 250.012 to read as follows:

12 Sec. 250.012. REGULATION OF OPEN-ENROLLMENT CHARTER  
13 SCHOOLS. (a) In this section:

14 (1) "Local governmental entity" means a political  
15 subdivision of the state, including a:

16 (A) municipality;

17 (B) county; and

18 (C) special purpose district.

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

22 (b) A local governmental entity may not enact or enforce an  
23 ordinance, order, regulation, resolution, rule, or policy or take  
24 action that prohibits an open-enrollment charter school from  
25 operating a public school campus, educational support facility, or  
26 administrative office in the local governmental entity's  
27 jurisdiction or on any specific property in the jurisdiction of the

1 local governmental entity.

2 (c) The commissioner of education has exclusive  
3 jurisdiction over the establishment and location of an  
4 open-enrollment charter school campus as provided by Subchapter D,  
5 Chapter 12, Education Code.

6 (d) This section applies to property purchased or leased  
7 with state funds received by an open-enrollment charter school  
8 under Section 12.128, Education Code.

9 (e) This section does not affect the authority granted by  
10 state law to a local governmental entity to regulate an  
11 open-enrollment charter school.

12 SECTION 5. Section 395.022(b), Local Government Code, is  
13 amended to read as follows:

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

22 SECTION 6. Section 552.053, Local Government Code, is  
23 amended by amending Subsection (b) and adding Subsections (b-1) and  
24 (b-2) to read as follows:

25 (b) The following may be exempt:

26 (1) this state;

27 (2) a county;

1 (3) a municipality; or

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

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

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

10 SECTION 7. Section 12.101(b-0), Education Code, is  
11 repealed.

12 SECTION 8. As soon as practicable after the effective date  
13 of this Act, the State Board of Education shall adopt procedures for  
14 the appeal of an application selection determination as provided by  
15 Section 12.1102, Education Code, as added by this Act.

16 SECTION 9. An exemption granted to a school district under  
17 Section 552.053(b)(4), Local Government Code, as that section  
18 existed before the effective date of this Act, automatically  
19 extends to all open-enrollment charter schools located in the  
20 municipality after the effective date of this Act unless the  
21 municipality repeals the exemption before the effective date of  
22 this Act.

23 SECTION 10. This Act takes effect immediately if it  
24 receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, this Act takes effect September 1, 2021.