

By: Hughes, et al.
(Deshotel, Leman, Huberty, Buckley)

S.B. No. 487

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 Subsections (d), (d-1), (d-2), (d-3), and (d-4) 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) A political subdivision shall consider an open-enrollment charter school a school district for purposes of zoning, project permitting, platting and replatting processes, business licensing, franchises, utility services, signage, subdivision regulation, property development projects, the requirements for posting bonds or securities, contract requirements, land development standards as provided by Section 212.902, Local Government Code, tree and vegetation regulations,

1 regulations of architectural features of a structure, construction
2 of fences, landscaping, garbage disposal, noise levels, fees or
3 other assessments, and construction or site development work. An
4 open-enrollment charter school does not have the power of eminent
5 domain.

6 (d-1) A political subdivision may not take any action that
7 prohibits an open-enrollment charter school from operating a public
8 school campus, educational support facility, athletic facility, or
9 administrative office within the political subdivision's
10 jurisdiction or on any specific property located within the
11 jurisdiction of the political subdivision that it could not take
12 against a school district. A political subdivision shall grant
13 approval in the same manner and follow the same timelines as if the
14 charter school were a school district located in that political
15 subdivision's jurisdiction.

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

18 (d-3) Except as provided by this section, this section does
19 not affect the authority granted by state law to a political
20 subdivision to regulate an open-enrollment charter school
21 regarding health and safety ordinances.

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

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

26 Sec. 212.902. SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER
27 SCHOOL LAND DEVELOPMENT STANDARDS. (a) This section applies to an

1 agreement [~~agreements~~] between a school district or
2 open-enrollment charter school [~~districts~~] and a [~~any~~]
3 municipality which has annexed territory for limited purposes.

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

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

1 district or charter school and the municipality. The cost of the
2 arbitration proceeding shall be borne equally by the [~~school~~]
3 district or charter school and the municipality.

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

14 (e) In this section:

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

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

25 (f) Nothing in this section shall be construed to limit the
26 applicability of or waive fees for fire, safety, health, or
27 building code ordinances of the municipality prior to or during

1 construction of school buildings, nor shall any agreement waive any
2 fee or modify any ordinance of a municipality for an
3 administration, service, or athletic facility proposed for
4 construction by a school district or open-enrollment charter
5 school.

6 SECTION 3. Section 552.053(b), Local Government Code, is
7 amended to read as follows:

8 (b) The following may be exempt:

- 9 (1) this state;
10 (2) a county;
11 (3) a municipality; or
12 (4) [~~a~~] school districts and open-enrollment charter
13 schools [~~district~~].

14 SECTION 4. Section 12.103(c), Education Code, is repealed.

15 SECTION 5. An exemption granted to a school district under
16 Section 552.053(b)(4), Local Government Code, as that subdivision
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 6. 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, 2021.