

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

1 System (NAICS) in any of the following sector codes:

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

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

4 (3) Sector 72: Accommodation and Food Services.

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

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

12 (2) entering into a lease or other financing
13 arrangement for district or school property provided by other law,
14 including with a public facility corporation created under Chapter
15 303, Local Government Code.

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

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

22 (b) The change in law made by this Act applies to a business
23 interest in an entity acquired by a school district or
24 open-enrollment charter school before, on, or after the effective
25 date of this Act. Except as provided by Subsection (c) of this
26 section, a school district or open-enrollment charter school
27 subject to Section 45.116, Education Code, as added by this Act,

1 shall divest all business interest in an entity described by that
2 section not later than September 1, 2026, unless the commissioner
3 of education determines that the business interest serves a public
4 purpose in accordance with Section 45.116(b), Education Code, as
5 added by this Act.

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

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