By: Deshotel H.B. No. 1348

Substitute the following for H.B. No. 1348:

By: _____ C.S.H.B. No. 1348

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), and (d-3) 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 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, eminent domain, 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, regulations of architectural features of a structure, construction of fences, landscaping, garbage disposal, noise levels, fees or other assessments, and construction or site development work.

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

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

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

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.

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

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

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

(e) In this section:

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

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

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

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

SECTION 3. Section 395.022(b), Local Government Code, is amended to read as follows:

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

SECTION 4. Section 552.053(b), Local Government Code, is amended to read as follows:

(b) The following may be exempt:

(1) this state;

(2) a county;

(3) a municipality; or

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

SECTION 5. An exemption granted to a school district under Section 552.053(b)(4), Local Government Code, as that section existed before the effective date of this Act, automatically extends to all open-enrollment charter schools located in the municipality after the effective date of this Act unless the municipality repeals the exemption before the effective date of this Act.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.