

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1707
By: Klick et al. (Hughes)
Education
5/11/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 12.105, Education Code, states that "an open-enrollment charter school is part of the public school system of this state." On certain occasions and in certain municipalities, however, charter schools have not been treated in the same manner as independent school districts with regard to certain issues, including zoning, permitting, code compliance, and other local ordinances. To the extent that charter schools have been disadvantaged by such treatment, the costs of the school have increased and its educational mission has become impaired. H.B. 1707 seeks to address these concerns by ensuring that open-enrollment charter schools and school districts are treated in the same manner when it comes to certain aspects of local government.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1707 restructures part of H.B. 1707 without substantive changes. The substitute also adds the phrase "related to property transactions" on line 22, page 3 (of the substitute itself), to clarify what type of financial information a charter school must make available.

C.S.H.B. 1707 amends current law relating to the applicability of certain laws to open-enrollment charter schools.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.1058, Education Code, by amending Subsection (c) and adding Subsections (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m), as follows:

(c) Provides that an open-enrollment charter school operated by a tax exempt entity as described by a certain section, notwithstanding certain subsections, is not considered to be a political subdivision, local government, or local governmental entity unless a statute, rather than the applicable statute, specifically states that the statute applies to an open-enrollment charter school.

(d) Requires a political subdivision to 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 (School District Land Development Standards), 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 if the charter school provides to the political subdivision the certification described by Subsection (e).

(e) Requires the governing body of an open-enrollment charter school, to be considered a school district by a political subdivision in accordance with Subsection (d), to certify in

writing to the political subdivision that no administrator, officer, or employee of the charter school and no member of the governing body of the charter school or its charter holder derives any personal financial benefit from a real estate transaction with the charter school.

(f) Requires an open-enrollment charter school considered a school district under this section to comply with the same requirements imposed by the political subdivision on a campus of a school district.

(g) Provides that an open-enrollment charter school does not have the power of eminent domain.

(h) Prohibits a political subdivision from considering an open-enrollment charter school a school district under Section 395.022 (Authority of Political Subdivision to Pay Fees), Local Government Code, for the purposes of the collection of impact fees imposed under Chapter 395 (Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments), Local Government Code, by the political subdivision for providing capital funding for public water and wastewater facilities.

(i) Prohibits a political subdivision from taking 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. Requires a political subdivision to 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, provided that, for a new campus, the charter school provide notice, in the manner provided by and to the persons listed in Section 12.1101, of the location of the new campus within 20 business days of closing on the purchase or lease of real property for that campus.

(j) Provides that this section applies to both owned and leased property of the open-enrollment charter school under Section 12.128.

(k) Provides that this section, except as provided by this section, does not affect the authority granted by state law to a political subdivision to regulate an open-enrollment charter school through applicable health and safety ordinances imposed by the political subdivision.

(l) Provides that, in this section, "political subdivision" does not include a school district.

(m) Provides that this subsection applies only to information of a financial nature related to property transactions of an open-enrollment charter school subject to this section. Provides that a nonprofit entity operating an open-enrollment charter school under Chapter 12 or a management company providing management services to the nonprofit entity is considered a governmental body for purposes of Chapter 552 (Public Information), Government Code, and financial information related to property transactions that is managed or possessed by the entity or company is subject to disclosure under Chapter 552, Government Code.

SECTION 2. Amends Section 212.902, Local Government Code, as follows:

Sec. 212.902. New heading: SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER SCHOOL LAND DEVELOPMENT STANDARDS. (a) Provides that this section applies to an agreement, rather than to agreements, between a school district or open-enrollment charter school, rather than school districts, and a municipality which has annexed territory for limited purposes. Makes nonsubstantive changes.

(b) Requires a municipality, on request by a school district or open-enrollment charter school, to 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. Requires that the agreement 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) Requires that proposed agreements by the district or charter school and the municipality, 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, be submitted to an independent arbitrator appointed by the presiding district judge whose jurisdiction includes the district or charter school. Requires the arbitrator, after a hearing at which both the district or charter school and the municipality make presentations on their proposed agreements, to prepare an agreement resolving any differences between the proposals. Provides that the agreement prepared by the arbitrator will be final and binding upon both the district or charter school and the municipality. Requires that the cost of the arbitration proceeding be borne equally by the district or charter school and the municipality. Makes nonsubstantive changes.

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

(e) Authorizes an agreement between a municipality and an open-enrollment charter school under Subsection (b) to require that:

(1) any revised land development standards are authorized to apply only while the property is used for purposes of the charter school; and

(2) any property in use subject to land development standards established only for an open-enrollment charter school is required to be brought into compliance with all development regulations applicable to non-school related commercial developments by the property owner after closure or relocation of the charter school.

(f) Redefines "land development standards" and defines "open-enrollment charter school." Makes nonsubstantive changes.

(g) Prohibits anything in this section from being 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, and any agreement is prohibited from waiving 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. Amends Section 552.053(b), Local Government Code, as follows:

(b) Authorizes the following to be exempt from the provisions of Subchapter C (Municipal Drainage Utility Systems), Local Government Code:

(1)-(3) makes no changes to these subdivisions; or

(4) school districts and open-enrollment charter schools.

Makes nonsubstantive changes.

SECTION 4. Repealer: Section 12.103(c) (relating to providing that a campus of an open-enrollment charter school located in whole or in part in a municipality with a population of 20,000 or less is not subject to a municipal zoning ordinance governing public schools), Education Code.

SECTION 5. Provides that an exemption granted to a school district under Section 552.053(b)(4), Local Government Code, as that subdivision 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. Effective date: upon passage or September 1, 2023.