

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 472

By: Hughes

Education

4/13/2023

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 zoning, permitting, code compliance, and other local ordinances. To the extent that charter schools have been disadvantaged by such treatment, the school's costs have increased and its educational mission has been impaired.

S.B. 472 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.S.B. 472 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. Reenacts Section 12.104(b), Education Code, as amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular Session, 2021, and amends it to provide that an open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) or a rule adopted under this Title, relating to establishing a local school health advisory council in which members are appointed by the governing body of the school and health education instruction complies with Section 28.004 (Local School Health Advisory Council and Health Education Instruction). Makes nonsubstantive changes.

SECTION 2. Amends Section 12.1058, Education Code, by amending Subsection (c) and adding Subsections (d), (d-1), (d-2), (d-3), and (d-4), as follows:

(c) Provides that an open-enrollment charter school operated by a tax exempt entity as described by Section 12.101(a)(3) (relating to an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986), notwithstanding certain subsections, is not considered to be a political subdivision, local government, or local governmental entity unless a, rather than the applicable, statute specifically states that the statute applies to an open-enrollment charter school, or a provision in Chapter 12 (Charters) states that a specific 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. Provides that an open-enrollment charter school does not have the power of eminent domain.

(d-1) 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.

(d-2) Provides that this section applies to both owned and leased property of the open-enrollment charter school under Section 12.128 (Property Purchased or Leased with State Funds).

(d-3) 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 regarding health and safety ordinances.

(d-4) Provides that "political subdivision" does not include a school district.

#### SECTION 3. 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 between a school district or open-enrollment charter school and a municipality, rather than to agreements between school districts and any municipality, which has annexed territory for limited purposes. Makes a nonsubstantive change.

(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 the proposed agreements by the district or charter school, rather than the school district, 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. Makes conforming changes.

(d) Makes conforming and nonsubstantive changes to this subsection.

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

(f) Makes a conforming change to this subsection.

#### SECTION 4. Amends Section 552.053(b), Local Government Code, as follows:

(b) Authorizes the following to be exempt:

(1)-(2) makes no changes to these subdivisions;

(3) makes a nonsubstantive change to this subdivision; or

(4) school district and open-enrollment charter schools, rather than a school district.

SECTION 5. Repealer: Section 12.103(c) (relating to providing that a campus of an open-enrollment charter school located within a municipality of 20,000 or less is not subject to municipal zoning ordinances governing public schools), Education Code.

SECTION 6. 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 7. Provides that this Act, to the extent of any conflict, prevails over another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 8. Effective date: upon passage or September 1, 2023.