

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), (e), (f), (g), (h), (i), (j), (k), (l), and (m) 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 if the  
4 charter school provides to the political subdivision the  
5 certification described by Subsection (e).

6 (e) To be considered a school district by a political  
7 subdivision in accordance with Subsection (d), the governing body  
8 of an open-enrollment charter school must certify in writing to the  
9 political subdivision that no administrator, officer, or employee  
10 of the charter school and no member of the governing body of the  
11 charter school or its charter holder derives any personal financial  
12 benefit from a real estate transaction with the charter school.

13 (f) An open-enrollment charter school considered a school  
14 district under this section shall comply with the same requirements  
15 imposed by the political subdivision on a campus of a school  
16 district.

17 (g) An open-enrollment charter school does not have the  
18 power of eminent domain.

19 (h) A political subdivision may not consider an  
20 open-enrollment charter school a school district under Section  
21 395.022, Local Government Code, for the purposes of the collection  
22 of impact fees imposed under Chapter 395, Local Government Code, by  
23 the political subdivision for providing capital funding for public  
24 water and wastewater facilities.

25 (i) A political subdivision may not take any action that  
26 prohibits an open-enrollment charter school from operating a public  
27 school campus, educational support facility, athletic facility, or

1 administrative office within the political subdivision's  
2 jurisdiction or on any specific property located within the  
3 jurisdiction of the political subdivision that it could not take  
4 against a school district. A political subdivision shall grant  
5 approval in the same manner and follow the same timelines as if the  
6 charter school were a school district located in that political  
7 subdivision's jurisdiction, provided that, for a new campus, the  
8 charter school provide notice, in the manner provided by and to the  
9 persons listed in Section 12.1101, of the location of the new campus  
10 within 20 business days of closing on the purchase or lease of real  
11 property for that campus.

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

14 (k) Except as otherwise provided by this section, this  
15 section does not affect the authority granted by state law to a  
16 political subdivision to regulate an open-enrollment charter  
17 school through applicable health and safety ordinances imposed by  
18 the political subdivision.

19 (l) In this section, "political subdivision" does not  
20 include a school district.

21 (m) This subsection applies only to information of a  
22 financial nature related to property transactions of an  
23 open-enrollment charter school subject to this section. A  
24 nonprofit entity operating an open-enrollment charter school under  
25 Chapter 12 or a management company providing management services to  
26 the nonprofit entity is considered a governmental body for purposes  
27 of Chapter 552, Government Code, and financial information related

1 to property transactions that is managed or possessed by the entity  
2 or company is subject to disclosure under Chapter 552, Government  
3 Code.

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

6 Sec. 212.902. SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER  
7 SCHOOL LAND DEVELOPMENT STANDARDS. (a) This section applies to an  
8 agreement [~~agreements~~] between a school district or  
9 open-enrollment charter school [~~districts~~] and a [~~any~~]  
10 municipality which has annexed territory for limited purposes.

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

22 (c) If the municipality and the school district or  
23 open-enrollment charter school do not reach an agreement on or  
24 before the 120th day after the date on which the municipality  
25 receives the district's or charter school's request for an  
26 agreement, proposed agreements by the [~~school~~] district or charter  
27 school and the municipality shall be submitted to an independent

1 arbitrator appointed by the presiding district judge whose  
2 jurisdiction includes the ~~[school]~~ district or charter school. The  
3 arbitrator shall, after a hearing at which both the ~~[school]~~  
4 district or charter school and the municipality make presentations  
5 on their proposed agreements, prepare an agreement resolving any  
6 differences between the proposals. The agreement prepared by the  
7 arbitrator will be final and binding upon both the ~~[school]~~  
8 district or charter school and the municipality. The cost of the  
9 arbitration proceeding shall be borne equally by the ~~[school]~~  
10 district or charter school and the municipality.

11 (d) A school district or open-enrollment charter school  
12 that requests an agreement under this section, at the time the  
13 district or charter school ~~[it]~~ makes the request, shall send a copy  
14 of the request to the commissioner of education. At the end of the  
15 120-day period, the requesting district or charter school shall  
16 report to the commissioner the status or result of negotiations  
17 with the municipality. A municipality may send a separate status  
18 report to the commissioner. The district or charter school shall  
19 send to the commissioner a copy of each agreement between the  
20 district or charter school and a municipality under this section.

21 (e) An agreement between a municipality and an  
22 open-enrollment charter school under Subsection (b) may require  
23 that:

24 (1) any revised land development standards may apply  
25 only while the property is used for purposes of the charter school;  
26 and

27 (2) any property in use subject to land development

1 standards established only for an open-enrollment charter school  
2 must be brought into compliance with all development regulations  
3 applicable to non-school related commercial developments by the  
4 property owner after closure or relocation of the charter school.

5 (f) [~~(e)~~] In this section:

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

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

16 (g) [~~(f)~~] Nothing in this section shall be construed to  
17 limit the applicability of or waive fees for fire, safety, health,  
18 or building code ordinances of the municipality prior to or during  
19 construction of school buildings, nor shall any agreement waive any  
20 fee or modify any ordinance of a municipality for an  
21 administration, service, or athletic facility proposed for  
22 construction by a school district or open-enrollment charter  
23 school.

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

26 (b) The following may be exempt:

27 (1) this state;

- 1           (2) a county;
- 2           (3) a municipality; or
- 3           (4) [~~a~~] school districts and open-enrollment charter
- 4 schools [~~district~~].

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

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

13          SECTION 6. This Act takes effect immediately if it receives  
14 a vote of two-thirds of all the members elected to each house, as  
15 provided by Section 39, Article III, Texas Constitution. If this  
16 Act does not receive the vote necessary for immediate effect, this  
17 Act takes effect September 1, 2023.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1707 was passed by the House on April 28, 2023, by the following vote: Yeas 101, Nays 45, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1707 on May 25, 2023, by the following vote: Yeas 130, Nays 8, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1707 was passed by the Senate, with amendments, on May 23, 2023, by the following vote: Yeas 25, Nays 6.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor