

1-1 By: Klick, et al. (Senate Sponsor - Hughes) H.B. No. 1707
 1-2 (In the Senate - Received from the House May 1, 2023;
 1-3 May 2, 2023, read first time and referred to Committee on
 1-4 Education; May 17, 2023, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 10, Nays 2;
 1-6 May 17, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16		X		
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21		X		

1-22 COMMITTEE SUBSTITUTE FOR H.B. No. 1707 By: Birdwell

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to the applicability of certain laws to open-enrollment
 1-26 charter schools.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Section 12.1058, Education Code, is amended by
 1-29 amending Subsection (c) and adding Subsections (d), (e), (f), (g),
 1-30 (h), (i), (j), (k), (l), and (m) to read as follows:

1-31 (c) Notwithstanding Subsection (a) or (b), an
 1-32 open-enrollment charter school operated by a tax exempt entity as
 1-33 described by Section 12.101(a)(3) is not considered to be a
 1-34 political subdivision, local government, or local governmental
 1-35 entity unless:

1-36 (1) a [the applicable] statute specifically states
 1-37 that the statute applies to an open-enrollment charter school; or

1-38 (2) a provision in this chapter states that a specific
 1-39 statute applies to an open-enrollment charter school.

1-40 (d) A political subdivision shall consider an
 1-41 open-enrollment charter school a school district for purposes of
 1-42 zoning, project permitting, platting and replatting processes,
 1-43 business licensing, franchises, utility services, signage,
 1-44 subdivision regulation, property development projects, the
 1-45 requirements for posting bonds or securities, contract
 1-46 requirements, land development standards as provided by Section
 1-47 212.902, Local Government Code, tree and vegetation regulations,
 1-48 regulations of architectural features of a structure, construction
 1-49 of fences, landscaping, garbage disposal, noise levels, fees or
 1-50 other assessments, and construction or site development work if the
 1-51 charter school provides to the political subdivision the
 1-52 certification described by Subsection (e).

1-53 (e) To be considered a school district by a political
 1-54 subdivision in accordance with Subsection (d), the governing body
 1-55 of an open-enrollment charter school must certify in writing to the
 1-56 political subdivision that no administrator, officer, or employee
 1-57 of the charter school and no member of the governing body of the
 1-58 charter school or its charter holder derives any personal financial
 1-59 benefit from a real estate transaction with the charter school.

1-60 (f) An open-enrollment charter school considered a school
 1-61 district under this section shall comply with the same requirements
 1-62 imposed by the political subdivision on a campus of a school

2-1 district.

2-2 (g) An open-enrollment charter school does not have the
2-3 power of eminent domain.

2-4 (h) A political subdivision may not consider an
2-5 open-enrollment charter school a school district under Section
2-6 395.022, Local Government Code, for the purposes of the collection
2-7 of impact fees imposed under Chapter 395, Local Government Code, by
2-8 the political subdivision for providing capital funding for public
2-9 water and wastewater facilities.

2-10 (i) A political subdivision may not take any action that
2-11 prohibits an open-enrollment charter school from operating a public
2-12 school campus, educational support facility, athletic facility, or
2-13 administrative office within the political subdivision's
2-14 jurisdiction or on any specific property located within the
2-15 jurisdiction of the political subdivision that it could not take
2-16 against a school district. A political subdivision shall grant
2-17 approval in the same manner and follow the same timelines as if the
2-18 charter school were a school district located in that political
2-19 subdivision's jurisdiction, provided that, for a new campus, the
2-20 charter school provide notice, in the manner provided by and to the
2-21 persons listed in Section 12.1101, of the location of the new campus
2-22 within 20 business days of closing on the purchase or lease of real
2-23 property for that campus.

2-24 (j) This section applies to both owned and leased property
2-25 of the open-enrollment charter school under Section 12.128.

2-26 (k) Except as otherwise provided by this section, this
2-27 section does not affect the authority granted by state law to a
2-28 political subdivision to regulate an open-enrollment charter
2-29 school through applicable health and safety ordinances imposed by
2-30 the political subdivision.

2-31 (l) In this section, "political subdivision" does not
2-32 include a school district.

2-33 (m) This subsection applies only to information of a
2-34 financial nature related to property transactions of an
2-35 open-enrollment charter school subject to this section. A
2-36 nonprofit entity operating an open-enrollment charter school under
2-37 Chapter 12 or a management company providing management services to
2-38 the nonprofit entity is considered a governmental body for purposes
2-39 of Chapter 552, Government Code, and financial information related
2-40 to property transactions that is managed or possessed by the entity
2-41 or company is subject to disclosure under Chapter 552, Government
2-42 Code.

2-43 SECTION 2. Section 212.902, Local Government Code, is
2-44 amended to read as follows:

2-45 Sec. 212.902. SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER
2-46 SCHOOL LAND DEVELOPMENT STANDARDS. (a) This section applies to an
2-47 agreement [~~agreements~~] between a school district or
2-48 open-enrollment charter school [~~districts~~] and a [~~any~~]
2-49 municipality which has annexed territory for limited purposes.

2-50 (b) On request by a school district or open-enrollment
2-51 charter school, a municipality shall enter an agreement with the
2-52 board of trustees of the school district or the governing body of
2-53 the open-enrollment charter school to establish review fees, review
2-54 periods, and land development standards ordinances and to provide
2-55 alternative water pollution control methodologies for school
2-56 buildings constructed by the school district or open-enrollment
2-57 charter school. The agreement shall include a provision exempting
2-58 the district or charter school from all land development ordinances
2-59 in cases where the district or charter school is adding temporary
2-60 classroom buildings on an existing school campus.

2-61 (c) If the municipality and the school district or
2-62 open-enrollment charter school do not reach an agreement on or
2-63 before the 120th day after the date on which the municipality
2-64 receives the district's or charter school's request for an
2-65 agreement, proposed agreements by the [~~school~~] district or charter
2-66 school and the municipality shall be submitted to an independent
2-67 arbitrator appointed by the presiding district judge whose
2-68 jurisdiction includes the [~~school~~] district or charter school. The
2-69 arbitrator shall, after a hearing at which both the [~~school~~]
2-70 district or charter school and the municipality make presentations
2-71 on their proposed agreements, prepare an agreement resolving any

3-1 differences between the proposals. The agreement prepared by the
3-2 arbitrator will be final and binding upon both the [~~school~~]
3-3 district or charter school and the municipality. The cost of the
3-4 arbitration proceeding shall be borne equally by the [~~school~~]
3-5 district or charter school and the municipality.

3-6 (d) A school district or open-enrollment charter school
3-7 that requests an agreement under this section, at the time the
3-8 district or charter school [it] makes the request, shall send a copy
3-9 of the request to the commissioner of education. At the end of the
3-10 120-day period, the requesting district or charter school shall
3-11 report to the commissioner the status or result of negotiations
3-12 with the municipality. A municipality may send a separate status
3-13 report to the commissioner. The district or charter school shall
3-14 send to the commissioner a copy of each agreement between the
3-15 district or charter school and a municipality under this section.

3-16 (e) An agreement between a municipality and an
3-17 open-enrollment charter school under Subsection (b) may require
3-18 that:

3-19 (1) any revised land development standards may apply
3-20 only while the property is used for purposes of the charter school;
3-21 and

3-22 (2) any property in use subject to land development
3-23 standards established only for an open-enrollment charter school
3-24 must be brought into compliance with all development regulations
3-25 applicable to non-school related commercial developments by the
3-26 property owner after closure or relocation of the charter school.

3-27 (f) [~~(e)~~] In this section:

3-28 (1) [~~7~~] "Land [~~land~~] development standards" includes
3-29 impervious cover limitations, building setbacks, floor to area
3-30 ratios, building heights and coverage, water quality controls,
3-31 landscaping, development setbacks, compatibility standards,
3-32 traffic analyses, including traffic impact analyses, parking
3-33 requirements, signage requirements, and driveway cuts, if
3-34 applicable.

3-35 (2) "Open-enrollment charter school" means a school
3-36 granted a charter under Subchapter C, D, or E, Chapter 12, Education
3-37 Code.

3-38 (g) [~~(f)~~] Nothing in this section shall be construed to
3-39 limit the applicability of or waive fees for fire, safety, health,
3-40 or building code ordinances of the municipality prior to or during
3-41 construction of school buildings, nor shall any agreement waive any
3-42 fee or modify any ordinance of a municipality for an
3-43 administration, service, or athletic facility proposed for
3-44 construction by a school district or open-enrollment charter
3-45 school.

3-46 SECTION 3. Section 552.053(b), Local Government Code, is
3-47 amended to read as follows:

3-48 (b) The following may be exempt:

- 3-49 (1) this state;
- 3-50 (2) a county;
- 3-51 (3) a municipality; or
- 3-52 (4) [~~a~~] school districts and open-enrollment charter
3-53 schools [district].

3-54 SECTION 4. Section 12.103(c), Education Code, is repealed.

3-55 SECTION 5. An exemption granted to a school district under
3-56 Section 552.053(b)(4), Local Government Code, as that subdivision
3-57 existed before the effective date of this Act, automatically
3-58 extends to all open-enrollment charter schools located in the
3-59 municipality after the effective date of this Act unless the
3-60 municipality repeals the exemption before the effective date of
3-61 this Act.

3-62 SECTION 6. This Act takes effect immediately if it receives
3-63 a vote of two-thirds of all the members elected to each house, as
3-64 provided by Section 39, Article III, Texas Constitution. If this
3-65 Act does not receive the vote necessary for immediate effect, this
3-66 Act takes effect September 1, 2023.

3-67 * * * * *