

SENATE AMENDMENTS

2nd Printing

By: Klick, Leo-Wilson, Jetton,
J. Johnson of Harris, et al.

H.B. No. 1707

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),
(d-3), (d-4), (d-5), and (d-6) 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 certifies in writing to the political subdivision
5 that no administrator, officer, or employee of the charter school
6 and no member of the governing body of the charter school or its
7 charter holder derives any personal financial benefit from a real
8 estate transaction with the charter school. If an open-enrollment
9 charter school is considered a school district as provided by this
10 subsection, the charter school shall comply with the same
11 requirements imposed by the political subdivision on a campus of a
12 school district. An open-enrollment charter school does not have
13 the power of eminent domain.

14 (d-1) A political subdivision may not consider an
15 open-enrollment charter school a school district under Section
16 395.022, Local Government Code, for the purposes of the collection
17 of impact fees imposed under Chapter 395, Local Government Code, by
18 the political subdivision for providing capital funding for public
19 water and wastewater facilities.

20 (d-2) A political subdivision may not take any action that
21 prohibits an open-enrollment charter school from operating a public
22 school campus, educational support facility, athletic facility, or
23 administrative office within the political subdivision's
24 jurisdiction or on any specific property located within the
25 jurisdiction of the political subdivision that it could not take
26 against a school district. A political subdivision shall grant
27 approval in the same manner and follow the same timelines as if the

1 charter school were a school district located in that political
2 subdivision's jurisdiction, provided that, for a new campus, the
3 charter school provide notice, in the manner provided by and to the
4 persons listed in Section 12.1101, of the location of the new campus
5 within 20 business days of closing on the purchase or lease of real
6 property for that campus.

7 (d-3) This section applies to both owned and leased property
8 of the open-enrollment charter school under Section 12.128.

9 (d-4) Except as provided by this section, this section does
10 not affect the authority granted by state law to a political
11 subdivision to regulate an open-enrollment charter school
12 regarding health and safety ordinances.

13 (d-5) In this section, "political subdivision" does not
14 include a school district.

15 (d-6) This subsection applies only to information of a
16 financial nature of an open-enrollment charter school subject to
17 this section. A nonprofit entity operating an open-enrollment
18 charter school under Chapter 12 or a management company providing
19 management services to the nonprofit entity is considered a
20 governmental body for purposes of Chapter 552, Government Code, and
21 information managed by the entity or company is subject to
22 disclosure under Chapter 552, Government Code.

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

25 Sec. 212.902. SCHOOL DISTRICT AND OPEN-ENROLLMENT CHARTER
26 SCHOOL LAND DEVELOPMENT STANDARDS. (a) This section applies to an
27 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

1 arbitration proceeding shall be borne equally by the [~~school~~]
2 district or charter school and the municipality.

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

13 (e) An agreement between a municipality and an
14 open-enrollment charter school under Subsection (b) may require
15 that:

16 (1) any revised land development standards may apply
17 only as long as the property is being used for purposes of the
18 school; and

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

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

25 (1) [~~7~~] "Land [~~land~~] development standards" includes
26 impervious cover limitations, building setbacks, floor to area
27 ratios, building heights and coverage, water quality controls,

1 landscaping, development setbacks, compatibility standards,
2 traffic analyses, including traffic impact analyses, parking
3 requirements, signage requirements, and driveway cuts, if
4 applicable.

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

8 (g) [~~(f)~~] Nothing in this section shall be construed to
9 limit the applicability of or waive fees for fire, safety, health,
10 or building code ordinances of the municipality prior to or during
11 construction of school buildings, nor shall any agreement waive any
12 fee or modify any ordinance of a municipality for an
13 administration, service, or athletic facility proposed for
14 construction by a school district or open-enrollment charter
15 school.

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

18 (b) The following may be exempt:

- 19 (1) this state;
20 (2) a county;
21 (3) a municipality; or
22 (4) [~~a~~] school districts and open-enrollment charter
23 schools [~~district~~].

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

25 SECTION 5. An exemption granted to a school district under
26 Section 552.053(b)(4), Local Government Code, as that subdivision
27 existed before the effective date of this Act, automatically

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1 extends to all open-enrollment charter schools located in the
2 municipality after the effective date of this Act unless the
3 municipality repeals the exemption before the effective date of
4 this Act.

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

ADOPTED

MAY 23 2023

By: Klick/Hughes

Late *H. Shaw*
Secretary of the Senate
B. No. 1707

Substitute the following for __.B. No. ____:

By: Birdwell

C.S. H. B. No. 1707

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the applicability of certain laws to open-enrollment
3 charter schools.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

8 (c) Notwithstanding Subsection (a) or (b), an
9 open-enrollment charter school operated by a tax exempt entity as
10 described by Section 12.101(a)(3) is not considered to be a
11 political subdivision, local government, or local governmental
12 entity unless:

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

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

17 (d) A political subdivision shall consider an
18 open-enrollment charter school a school district for purposes of
19 zoning, project permitting, platting and replatting processes,
20 business licensing, franchises, utility services, signage,
21 subdivision regulation, property development projects, the
22 requirements for posting bonds or securities, contract
23 requirements, land development standards as provided by Section
24 212.902, 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) [~~7~~] "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
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21 administration, service, or athletic facility proposed for
22 construction by a school district or open-enrollment charter
23 school.

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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.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 23, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1707 by Klick (Relating to the applicability of certain laws to open-enrollment charter schools.),
As Passed 2nd House

No fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, SD, KSk, AF, CMA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 11, 2023

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1707 by Klick (relating to the applicability of certain laws to open-enrollment charter schools.),
Committee Report 2nd House, Substituted

No fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, KSk, AF, CMA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 9, 2023

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1707 by Klick (Relating to the applicability of certain laws to open-enrollment charter schools.),
As Engrossed

No fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, KSk, AF, CMA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 27, 2023

TO: Honorable DeWayne Burns, Chair, House Committee on Land & Resource Management

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1707 by Klick (Relating to the applicability of certain laws to open-enrollment charter schools.),
As Introduced

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, AF, CMA