

- SUBJECT:** Applicability of certain laws to open-enrollment charter schools
- COMMITTEE:** Public Education — favorable, without amendment
- VOTE:** 11 ayes — Aycock, Allen, J. Davis, Deshotel, Dutton, Farney, Huberty, K. King, Ratliff, J. Rodriguez, Villarreal
- 0 nays
- SENATE VOTE:** On final passage, April 9 — 31-0
- WITNESSES:** For — Tommy Fuller, Universal Academy; Lindsey Jones, Texas Charter Schools Association; (*Registered, but did not testify*: Andrew Erben, Texas Institute for Education Reform; Lee Parsley, Texans for Lawsuit Reform)
- Against — (*Registered, but did not testify*: Monty Exter, The Association of Texas Professional Educators)
- On — (*Registered, but did not testify*: David Anderson, Texas Education Agency)
- BACKGROUND:** Education Code, sec. 12.1056 states that open-enrollment charter schools possess the same immunity from liability as school districts. Such immunity applies to employees and volunteers, as well as members of the governing bodies of charter schools.
- Civil Practice and Remedies Code, ch. 101 states what tort liability government units, including school districts, may face. Ch. 101 also places limits on the liability local government units can incur in terms of maximum money damages amounts. The tort liability provisions of this chapter only apply to school districts in the case of an injury resulting from the use of a motor-driven vehicle. Civil Practice and Remedies Code, ch. 102 states when a local government entity may pay actual damages on a tort claim and the limits on these actual damages payments.
- Local Government Code, ch. 271, Subch. I provides for limits on the amount of liability to which local government entities, including school

districts, may be subject in breach of contract cases.

Labor Code, ch. 504 states that a political subdivision, which includes a school district, is required to extend workers' compensation benefits to its employees. Workers' compensation benefits may be provided through self-insurance, an insurance policy, or an interlocal agreement for self-insurance with other political subdivisions. Labor Code, Title 5, subtitle A ensures that employers who carry workers' compensation insurance get protection from unlimited legal liability for employees' on-the-job injuries, and workers receive timely compensation without having to sue their employers.

DIGEST:

SB 547 would amend Education Code, sec. 12.1056 to establish what tort and contract liability charter schools could incur. Charter schools would be considered a government unit for the purposes of Civil Practice and Remedies Code, ch. 101 and would be subject to the same tort liability as school districts. For purposes of Civil Practice and Remedies Code, ch. 102, with its limits on tort claims payments, a charter school would be considered a local government.

Charter schools would be treated in the same way as school districts for the purposes of contract disputes under Local Government Code, ch. 271, Subch. I.

A charter school could provide workers' compensation benefits to its employees through any of the available methods under Labor Code, ch. 504. In doing so, a charter school would be considered a political subdivision under this chapter. If a charter school chose to self-insure individually or through an interlocal agreement, that charter school would be considered an insurance carrier with limited liability protections under Labor Code, Title 5, subtitle A.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS
SAY:**

SB 547 would extend the same opportunities for liability protections to charter schools as are currently given to traditional public schools. Because charters receive per pupil funding but cannot levy taxes nor receive facilities funding, it is important to protect each and every dollar. Under current law, charter schools do not have a safeguard from

protracted litigation. Money that is put toward expensive litigation would be money that could have been spent on salaries, improved technology, curriculum expansion, and other classroom items.

Charter schools such as Universal Academy, which operates schools in North Texas, have faced protracted litigation. If this bill were enacted, the limited liability of charter schools would be clarified. Charter schools still would be held accountable for any breaches of contract. However, the bill would ensure any breach of contract claim met the same requirements applied to traditional school districts under the Local Government Code, such as the contract having to be in writing in order for a lawsuit to move forward.

The bill also would contain provisions that rightly allow charter schools to be treated in the same respects as the traditional school districts and as local government political subdivisions by allowing them to plan, manage risk associated with civil liability, and offer employee benefits and workers' compensation. Charter schools also would be afforded the tools to save costs on insurance by either self-insuring or participating in intergovernmental risk pools.

In granting charter schools the same immunities granted to traditional school districts, the bill would allow judges the same discretion to determine if a lawsuit was frivolous sooner rather than later in the legal process. Again, this would save charter schools money.

**OPPONENTS
SAY:**

The bill's immunity provisions are unnecessary. The existing immunity from liability provision ensures that a charter school is protected from having to pay damages amounts to the same extent as a traditional public school. While the bill might enable charter schools to get lawsuits dismissed at an earlier stage, charter schools are currently guaranteed to win against certain awards of damages at the court stage.