

SUBJECT: Requiring cities to treat charter schools as ISD schools for zoning, permits

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 6 ayes — Deshotel, Leman, Biedermann, Burrows, Spiller, Thierry

1 nay — Rosenthal

2 absent — Craddick, Romero

WITNESSES: For — Starlee Coleman, Texas Public Charter Schools Association; Randy Shaffer, Trinity Basin Preparatory; Sarah Landsman, YES Prep Public Schools; Lee Whitaker; (*Registered, but did not testify*: Julie Frank, American Federation for Children; Justin Keener, Doug Deason, Americans for Prosperity, and Libre Initiative; Harvey Hilderbran, International Leadership of Texas and Schulman Lopez Hoffer & Adelstein LLP; Addie Gomez, KIPP Texas Public Schools; Shea Mackin, National Parents Union; Frank Corte Jr., Schulman, Lopez, Hoffer, Adelstein; Madison Yandell, Texas 2036; Emily Sass, Texas Public Policy Foundation; Craig Chick, Yes. Every Kid.)

Against — Keith Martin, San Antonio Water System (SAWS); Mark Terry, Texas Elementary Principals and Supervisors Association; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; TJ Patterson, City of Fort Worth; Christine Wright, City of San Antonio; Chloe Latham Sikes, Intercultural Development Research Association; Grover Campbell, TASB; Rene Lara, Texas AFL-CIO; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Paige Williams, Texas Classroom Teachers Association; Dee Carney, Texas School Alliance; Tyler Sheldon, Texas State Employees Union; Portia Bosse, Texas State Teachers Association; Louann Martinez, Texas Urban Council; Clifford Sparks, City of Dallas)

**BACKGROUND:** Education Code sec. 12.103(a) subjects an open-enrollment charter school to federal and state laws and rules governing public schools and to municipal zoning ordinances. Sec. 12.103(c) states that a campus of a charter school located in whole or in part in a municipality with a population of 20,000 or less is not subject to a municipal zoning ordinance governing public schools.

**DIGEST:** CSHB 1348 would require a political subdivision to consider an open-enrollment charter school a public school district for purposes of zoning, project permitting, platting and replatting processes, business licensing, franchises, utility services, eminent domain, signage, subdivision regulation, property development projects, the requirements for posting bonds or securities, contract requirements, school district land development standards, 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.

A political subdivision could not take any action that prohibited a charter school from operating a public school campus, educational support facility, athletic facility, or administrative office that it could not take against a school district. A political subdivision would have 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.

The bill would apply to charter school property that was owned or leased with state funds. The bill would not affect the authority granted by state law to a political subdivision to regulate a charter school regarding health and safety ordinances.

CSHB 1348 would amend the Local Government Code to make the following changes:

- extend the applicability of statutory provisions relating to a land development standards agreement between a school district and a

- municipality that had annexed territory for limited purposes to such an agreement between an applicable municipality and an open-enrollment charter school, including a campus or campus program charter and a college, university, or junior college charter school;
- specify that the definition of land development standards that applied to these provisions included building heights, traffic impact analyses, parking requirements, and signage requirements;
  - exempt a charter school from paying impact fees imposed by a municipality, applicable county, or certain other local governments for financing capital improvements required by new development, unless the governing body of the charter school consented by contract to such payment; and
  - authorize the exemption of a charter school and applicable charter school property from the Municipal Drainage Utility Systems Act and associated regulations.

The bill would establish that an exemption from the Municipal Drainage Utility Systems Act granted to a school district before the bill's effective date automatically extends to all charter schools located in the municipality unless the municipality repealed the exemption before the bill's effective date.

The 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, 2021.

**SUPPORTERS  
SAY:**

CSHB 1348 would prevent cities from putting up unnecessary hurdles that can increase facilities costs for charter schools and limit their ability to serve Texas schoolchildren. Charter schools are public schools and should not be forced to spend more time and money than is necessary attempting to open new campuses.

The bill would create a level playing field by requiring cities to consider a charter school a school district for purposes of zoning, permitting, code compliance, and development. The bill would not remove the authority of local officials to review proposed charter school locations, but would just

require those officials to follow the same processes or procedures they use in reviewing new school district construction.

Concerns about the authority for charter schools to exercise the power of eminent domain could continue to be addressed.

**CRITICS  
SAY:**

CSHB 1348 would limit the authority of local officials to respond to community concerns and determine appropriate locations for proposed new charter schools. Current law appropriately treats charter schools differently from district schools, which have new school construction approved by elected school board members and often submit construction bond funding issues for voter approval. The private organizations that operate charter schools should not be given the power of eminent domain as the bill would authorize.