

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 547  
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Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Although open-enrollment charter schools are similar to traditional school districts in that they receive state funds, they are not afforded some of the statutory protections afforded to school districts that help safeguard public funds from lengthy litigation and sustain the financial viability of district schools.

The threat of financial drain from tort litigation and breach of contract litigation is a serious reality for open-enrollment charter schools.

S.B. 547 allows an open-enrollment charter school to be considered a local government entity or political subdivision so it can better plan and manage risks associated with civil liability, employee benefits, and workers' compensation. This legislation will allow charters to lower insurance costs by self-insuring or participating in risk pools.

This legislation also provides that employees, volunteers, and members of a governing body of a charter school are immune to the same extent as an employee, volunteer, or trustee of a school district.

As proposed, S.B. 547 amends current law relating to the applicability of certain laws to open-enrollment charter schools.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 12.1056, Education Code, as follows:

Sec. 12.1056. New heading: IMMUNITY. (a) Creates this subsection from existing text. Provides that an open-enrollment charter school, in matters related to operation of an open-enrollment charter school, is immune, rather than immune from liability, to the same extent as a school district, and its employees and volunteers are immune to the same extent as school district employees and volunteers. Provides that a member of a governing body of an open-enrollment charter school or of a charter holder is immune to the same extent as a school district trustee. Makes conforming changes.

(b) Provides that an open-enrollment charter school is a governmental unit as defined by Section 101.001 (Definitions), Civil Practice and Remedies Code, and is subject to liability only as provided by Chapter 101 (Tort Claims), Civil Practice and Remedies Code, and only in the manner that liability is provided by that chapter for a school district.

(c) Provides that an open-enrollment charter school is a local government as defined by Section 102.001 (Definitions), Civil Practice and Remedies Code, and a payment on a tort claim is required to comply with Chapter 102 (Tort Claims Payments by Local Governments), Civil Practice and Remedies Code.

(d) Provides that an open-enrollment charter school is a local governmental entity as defined by Section 271.151 (Definitions), Local Government Code, and is subject to liability on a contract as provided by Subchapter I (Adjudication of Claims Arising under Written Contracts With Local Governmental Entities), Local Government Code, and only in the manner that liability is provided by that subchapter for a school district.

SECTION 2. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1058, as follows:

Sec. 12.1058. APPLICABILITY OF OTHER LAWS. (a) Provides that an open-enrollment charter school is considered to be:

(1) a local government for purposes of Chapter 791 (Interlocal Cooperation Contracts), Government Code;

(2) a local government for purposes of Chapter 2259 (Self-Insurance by Governmental Units), Government Code, except that an open-enrollment charter school is prohibited from issuing public securities as provided by Section 2259.031(b) (relating to authorizing certain methods of funding a self-insurance fund by a governmental unit), Government Code; and

(3) a political subdivision for purposes of Chapter 172 (Texas Political Subdivisions Uniform Group Benefits Program), Local Government Code.

(b) Authorizes an open-enrollment charter school to elect to extend workers' compensation benefits to employees of the school through any method available to a political subdivision under Chapter 504 (Workers' Compensation Insurance Coverage for Employees of Political Subdivisions), Labor Code, except that an open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, is prohibited from providing workers' compensation medical benefits to injured employees in the manner described by Section 504.053(b)(2) (relating to providing workers compensation health care through alternative measures, including by directly contracting with health care providers or by contracting through a health benefits pool), Labor Code. Provides that an open-enrollment charter school that elects to extend workers' compensation benefits as permitted under this subsection is considered to be a political subdivision for all purposes under Chapter 504, Labor Code. Provides that an open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, is considered to be an insurance carrier for purposes of Subtitle A (Texas Workers' Compensation Act), Title 5, Labor Code.

SECTION 3. Effective date: upon passage or September 1, 2013.