

BILL ANALYSIS

Senate Research Center
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S.B. 2293
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Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since inception of charter schools in 1995, it was the intent and legal framework of the Texas Legislature that charter schools operated by nonprofit corporations are treated like public entities at the legislature's discretion. Charter schools are public schools and their employees are public employees due to receiving public funds to educate children and are accountable like public schools for academic and financial performance.

In several states, charter schools have recently been the subject of unionization efforts. The National Labor Relations Board has ruled in cases from Louisiana, New York, and Pennsylvania on determining whether charter school employees can organize in the last 18 months. Independent school districts in Texas, as political subdivisions, are not subject to unionization and collective bargaining by their employees. A recent Fifth Circuit Case upheld a National Labor Relations Board ruling that confirmed public charter school in Texas are political subdivisions for purposes of the National Labor Relations Act, just like school districts. However, state law does not include charter schools in Chapter 617, Government Code, for purposes of collective bargaining agreements. The unionization of charter schools would be costly to the operations of charter schools and not allow them to be flexible and creative to meet the purpose of providing a unique learning environment.

S.B. 2293 adds open-enrollment charter schools to the definition of political subdivisions in Chapter 617, Government Code, clarifying that charter schools are to be treated like school districts and are a political subdivision for purposes of collective bargaining agreements.

As proposed, S.B. 2293 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 12.1058(c), Education Code, as follows:

(c) Provides that, notwithstanding Subsection (a) or (b) (relating to open-enrollment charter schools being considered public entities under certain conditions), an open-enrollment charter school operated by a tax exempt entity as described by Section 12.101(a)(3) (relating to certain nonprofit organizations being included in the definition of "eligible entity") is not considered to be a political subdivision, local government, or local governmental entity unless:

- (1) creates this subdivision from existing text and makes a nonsubstantive change;
or
- (2) a provision in this chapter (Charters) states that a specific statute applies to an open-enrollment charter school.

SECTION 2. Amends Chapter 617, Government Code, by adding Section 617.0025, as follows:

Sec. 617.0025. APPLICABILITY OF CHAPTER TO OPEN-ENROLLMENT CHARTER SCHOOL. (a) Provides that an open-enrollment charter school established under Subchapter D (Open-Enrollment Charter School), Chapter 12, Education Code, is a political subdivision for purposes of this chapter (Collective Bargaining and Strikes).

(b) Provides that a member of the governing body of a charter holder, a member of the governing body of an open-enrollment charter school, and an officer of an open-enrollment charter school are considered to be officials of a political subdivision and an employee of an open-enrollment charter school is considered to be a public employee under this chapter.

SECTION 3. Provides that with respect to Section 617.0025, Government Code, as added by this Act, if an open-enrollment charter school entered into a collective bargaining contract with a labor organization before the effective date of this Act, Chapter 617, Government Code, does not apply during the term of that contract. Prohibits a collective bargaining contract entered into before the effective date of this Act from being renewed.

SECTION 4. Effective date: upon passage or September 1, 2019.