

SUBJECT: Exempting property leased to a charter school from property taxes

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — Meyer, Button, Cole, Murphy, Noble, Sanford, Shine

3 nays — Thierry, Guerra, Rodriguez

1 absent — Martinez Fischer

WITNESSES: For — Bruce Tabor, Goddwater Montessori School; Verena Chaudoir, Great Hearts - Texas; Josph Hoffer, Schulman, Lopez, Hoffer and Adelstein, LLP; (*Registered, but did not testify*: Celeste Brown, Compass Rose Public Schools; Eddie Conger, International Leadership of Texas Public Charter Schools; Harold Oliver, New Frontiers Public Charter School; Frank Corte Jr., Schulman, Lopez, Hoffer and Adelstein; Amy Beard, Yes. Every Kid.; Tom Sage)

Against — (*Registered, but did not testify*: Monty Exter, ATPE; Dick Lavine, Every Texan; Charles Luke, Pastors for Texas Children; Grover Campbell, TASB; Mark Terry, TEPSA; Rene Lara, Texas AFL-CIO; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Paige Williams, Texas Classroom Teachers Association; Carrie Griffith, Texas State Teachers Association)

On — (*Registered, but did not testify*: Korry Castillo, Comptroller of Public Accounts)

DIGEST: HB 3610 would exempt from taxation any property leased or purchased by a charter holder with funds received from the state after September 1, 2001, for open-enrollment charter school funding.

Under the bill, an open-enrollment charter school would be considered a political subdivision for purposes of:

- state law exempting political subdivisions from property taxation if

- the property was used for public purposes; and
- with respect to property purchased, leased, constructed, renovated, or improved with state funds after September 1, 2001, state law providing certain rights of action of a subdivision.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

HB 3610 would create property tax parity for all schools by allowing property leased by an open-enrollment charter school to be exempt from taxes. Currently, school districts, private nonprofit schools, and charter schools that own their facilities are exempt from property taxes. However, public charter schools that lease their facilities, which often include new or growing schools, must use state funds to cover both operations and facility costs. These schools do not have the ability to levy taxes and work with limited funds. By providing this tax exemption, HB 3610 would keep state education funds where they are best spent: in the classroom and on teacher salaries.

Concerns that the bill would decrease property tax revenues are unfounded. Public charter schools should receive all the funds allocated by the state to the school for their enrolled students, and this bill would ensure those revenues were not sent to other local taxing authorities or school districts as property tax. While the Legislature provides some funding for facilities, charter schools cannot levy taxes like school districts and remain at a disadvantage. Further, tax exemptions for facilities owned by charter schools are not guaranteed, and schools have to work with each taxing unit to be granted such exemptions. While some may be concerned that the bill would benefit landlords, the cost of property taxes is typically passed down to the renter, so charter schools, not landlords, would benefit from the exemption. There are also strong laws in place to prevent any landlords from self-dealing.

A joint resolution would not be necessary to enact this bill because the Texas Constitution already provides authority to the Legislature to grant a property tax exemption for school property and for political subdivisions using property for public purposes. If this was an issue, it could be

addressed.

CRITICS
SAY:

HB 3610 could reduce local property tax revenue, resulting in less funding for school districts, which serve more than 90 percent of students. This could add to the growing costs of running parallel systems of education for public district and charter schools. Charter schools already are allocated funds by Legislature for their leased facilities and may receive tax exemptions for facilities they own, so they do not need this exemption.

The bill also could allow the landlord leasing a facility to a charter school to benefit from the exemption, even though the landlord, not the state, would retain ownership of the property. In addition, because there are no transparency requirements in the bill, a person affiliated with a charter school could rent their building out to the school in a self-serving manner.

OTHER
CRITICS
SAY:

HB 3610 likely could not take effect without a joint resolution amending the Texas Constitution to allow for a property tax exemption of the leased facilities of a charter school.

NOTES:

According to the fiscal note, the bill could reduce taxable property values, which could reduce property tax revenue for local governments and increase costs to the Foundation School Fund through the operation of the school finance formulas. However, the value of property that would be exempt is unknown, so the cost cannot be estimated.