

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1133  
By: Bettencourt et al.  
Education  
4/27/2019  
Committee Report (Substituted)

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

Interested parties are concerned that expenditures by public schools that are not part of the fundamental teaching mission of a public school should be curbed or ended. This is the case especially for schools with low property wealth whose tax dollars are particularly difficult to squeeze from the taxpayer. Interested parties observe this situation is even more egregious and must end when a school spends large sums of tax dollar at the school's disposal only by being a recipient-school of, rather than "Robin Hood," tax dollars.

To address these concerns, S.B. 1133 provides that a school district or open-enrollment charter school may not, directly or indirectly through an affiliate, including an affiliated nonprofit corporation, have a business interest in an entity or own real property associated with an entity described by the North American Industry Classification System (NAICS) in any of the following sector codes: Sector 53: Real Estate and Rental and Leasing; Sector 71: Arts, Entertainment, and Recreation; or Sector 72: Accommodation and Food Services (e.g., water park, golf course, or hotel).

The bill requires a school district or open-enrollment charter school directly or indirectly through an affiliate, including an affiliated nonprofit corporation, have a business interest in an entity or own real property associated with an entity described by NAICS sector codes Sector 53: Real Estate and Rental and Leasing, Sector 71: Arts, Entertainment, and Recreation, or Sector 72: Accommodation and Food Services, to divest all ownership of, or business interest in, an entity or real property associated with an entity described by that section not later than September 1, 2024. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1133 amends current law relating to prohibiting public schools from owning, leasing, or having a business interest in certain entities and real property associated with those entities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 45.116, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter E, Chapter 45, Education Code, by adding Section 45.116, as follows:

Sec. 45.116. OWNERSHIP OF OR BUSINESS INTEREST IN CERTAIN ENTITIES AND PROPERTY PROHIBITED. (a) Defines "affiliate" and "business interest" for purposes of this section.

(b) Provides that this section does not apply if the commissioner of education (commissioner) determines that a business interest in an entity or the lease or ownership of real property, directly or indirectly through an affiliate, by a school district or open-enrollment charter school is used primarily for classroom space or serves a public purpose.

(c) Prohibits a school district or open-enrollment charter school from, directly or indirectly through an affiliate, including an affiliated nonprofit corporation, having a business interest in an entity or leasing or own owning real property in this state associated with an entity described by the North American Industry Classification System (NAICS) in any of the following sector codes.

(1) Sector 53: Real Estate and Rental and Leasing;

(2) Sector 71: Arts, Entertainment, and Recreation; or

(3) Sector 72: Accommodation and Food Services.

(d) Provides that this section does not prohibit or restrict a school district or open-enrollment charter school from:

(1) leasing or otherwise providing real property or a facility that the district or school owns or leases to an individual or entity for use by that individual or entity if the district or school is not prohibited from owning or leasing the real property or facility; or

(2) entering into a lease or other financing arrangement for district or school property provided by other law, including with a public facility corporation created under Chapter 303 (Public Facility Corporations), Local Government Code.

(e) Authorizes the commissioner to adopt rules necessary to implement this section.

SECTION 2. (a) Makes application of this Act prospective.

(b) Provides that the change in law made by this Act applies to a business interest in an entity by a school district or open-enrollment charter school before, on, or after the effective date of this Act. Requires the school district or open-enrollment charter school subject to Section 45.116, Education Code, as added by this Act, except as provided by Subsection (c) of this section, to divest all business interest in an entity described by that section not later than September 1, 2024, unless the commissioner determines that the business interest serves a public purpose in accordance with Section 45.116(b), Education Code, as added by this Act.

(c) Provides that a school district or open-enrollment charter school subject to Section 45.116, as added by this Act, that owns a natatorium that is associated with an entity that the district or school must divest under Subsection (b) of this section is authorized to retain ownership of the natatorium and the associated entity, so long as the district or school divests the business interest in the associated entity in accordance with Subsection (b) of this section.

SECTION 3. Effective date: September 1, 2019.