

BILL ANALYSIS

C.S.H.B. 2752
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Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Nonprofit student loan corporations, acting pursuant to Section 53.47(f), Education Code, provide secondary market financing for guaranteed student loans of Texas residents and those attending college in Texas. The proceeds of bonds issued by such student loan corporations are used to acquire student loan notes from originating lenders. The bonds are payable solely from the repayment and guarantee obligations of the student loans, with no State or local government obligation or liability.

Prior to 1996, in order to issue tax-exempt bonds, issuers were required by the Internal Revenue Code to restrict their activities solely to the acquisition of loans and were required to transfer all of their net assets to the United States upon dissolution. In 1996, Congress enacted amendments to the Internal Revenue Code which allow such nonprofit corporations to make an election to: (1) broaden their permitted purposes to include any charitable activities allowed for nonprofit 501(c)(3) entities; and (2) eliminate the requirement to transfer any net assets to the federal government upon dissolution. To make such changes in its tax status a nonprofit corporation is required to transfer all of its student loan notes and other assets, as well as all of its debt obligations secured by such assets, to a subsidiary corporation, 100% of the stock of which is owned by the nonprofit corporation. Under the federal tax law amendments, nonprofit corporations that elect to broaden their charitable activities are restricted in financing the acquisition of additional student loans through the issuance of tax-exempt bonds, but such action does not affect the tax-exempt status of its outstanding bonds or any new bonds issued to refund its outstanding bonds.

No existing State legislation reflects the 1996 tax law changes. As a result, there is no entity that is authorized by State law to issue bonds to refund the outstanding bonds of nonprofit corporations that have made the election to broaden their charitable and educational purposes.

CSHB 2752 amends Section 53.47 by authorizing the creation of nonprofit corporations for the limited purpose of refunding outstanding tax-exempt bonds and to allow such nonprofit corporations to obtain, along with other student loan issuers, a portion of the State's tax-exempt bond volume.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 2752 amends Section 53.47(a)(6), Education Code, broaden the definition of "Qualified nonprofit corporation" to include nonprofit corporations that issue bonds, the proceeds of which are used to refund bonds that were issued on or after January 1, 1990 and before January 1, 2002.

CSHB 2752 amends Section 53.47, Education Code, by adding Subsection (l) to authorize the incorporation of a nonprofit corporation to act on behalf of an approving city to issue revenue bonds for the purpose of refunding previously issued bond obligations of a nonprofit student loan corporation. The bill provides that any such bonds shall not be, or constitute a debt or obligation of the city. The bill provides that in addition to the specific powers granted, such nonprofit corporation shall have all

powers under the Nonprofit Corporation Act necessary in carrying out its purposes.

CSHB 2752 repeals Section 53.47(k), Education Code, to eliminate the expiration of Section 53.47(a)(6), which provides the definition of a “qualified non-profit corporation.”

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 2752 modifies the original by amending Section 53.47, Education Code, to add Subsection (l), rather than Subsection (h). Subsection (h) already exists in the code.