

By: Brown of Brazos

H.B. No. 2752

A BILL TO BE ENTITLED

AN ACT

relating to the creation of nonprofit corporations to refund
outstanding student loan bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 53.47(a)(6), Education Code, is amended
to read as follows:

(6) "Qualified nonprofit corporation" means a
nonprofit corporation:

(A) (i) that issued bonds on or after January 1, 1990, and before January 1, 2001, that qualified as qualified student loan bonds under Section 144(b), Internal Revenue Code of 1986, as amended; or (ii) that issues bonds the proceeds of which are used to refund bonds issued on or after January 1, 1990 and before January 1, 2001 that qualified as qualified student loan bonds under Section 144(b), Internal Revenue Code of 1986, as amended; or

(B) that the office of the governor, in consultation with the state student loan guaranty agency or any other public or private entity the office of the governor considers appropriate, has determined meets a need for student loan financing that existing qualified nonprofit corporations cannot meet, which determination may include information provided by the nonprofit corporation's plan for doing business that should include documented limitations in:

1 (i) the geographic coverage of existing
2 qualified nonprofit corporations in the nonprofit corporation's
3 proposed area of service;

4 (ii) the willingness of existing qualified
5 nonprofit corporations to serve the eligible leaders in the
6 proposed area of service; and

7 (iii) the ability of existing qualified
8 nonprofit corporations to serve the eligible lenders in the
9 proposed area of service.

10 SECTION 2. Section 53.47, Education Code, is amended by
11 adding a new subsection (h) to read as follows:

12 (h) The governing body of a city by ordinance or resolution
13 may authorize the incorporation of a nonprofit corporation under
14 this chapter to act on behalf of such city as its duly constituted
15 instrumentality for the purpose of exercising the powers set forth
16 in this subsection. Upon approval by the city, such nonprofit
17 corporation is authorized to issue its revenue bonds and to loan the
18 proceeds thereof to an entity that has assumed the outstanding bond
19 obligations of a nonprofit corporation, such loan being for the
20 limited purpose of refunding such outstanding bonds. In issuing
21 the bonds, the nonprofit corporation is considered to be acting on
22 behalf of the city by which it was created. The bonds to be refunded
23 must have been originally issued as "qualified scholarship funding
24 bonds" (within the meaning of that term as defined in section
25 150(d)(2) of the Internal Revenue Code of 1986, as amended) by a
26 nonprofit corporation while acting pursuant to subsection (f)
27 hereof and that subsequently made the election permitted under

1 section 150(d)(3) of the Internal Revenue Code, as amended. Any
2 refunding bonds shall be solely the obligation of such nonprofit
3 corporation and shall not be or constitute a debt or obligation of
4 the city. The ordinance or resolution of the city authorizing the
5 incorporation of the corporation must approve the articles of
6 incorporation and any amendments to the articles of incorporation.
7 Upon dissolution of the corporation, title to all property owned by
8 it shall be vested in and become the property of the city. A
9 corporation may be incorporated under this chapter by filing its
10 articles of incorporation with the secretary of state in the manner
11 prescribed for the incorporation of nonprofit corporations under
12 the Texas Non-Profit Corporations Act (Art. 1396-1.01 et seq,
13 Vernon's Texas Civil Statutes). On filing of the articles of
14 incorporation, the secretary of state shall issue a certificate of
15 incorporation showing that the corporation is incorporated under
16 this chapter. Except to the extent provided by this section,
17 Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.35(a) and 53.39
18 applies to and governs such corporation, its procedures, and bonds.
19 In addition to the specific powers granted under this subsection
20 (h), the corporation shall have all powers granted under the Texas
21 Non-profit Corporation Act that are necessary, incidental, or
22 subordinate in carrying out the purposes authorized in this
23 subsection.

24 SECTION 3. Subsection (k) of Section 53.47 is hereby
25 deleted.

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2003.