

By: West

S.B. No. 1476

A BILL TO BE ENTITLED

AN ACT

amending Section 53.47, Education Code, to permit 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:

(i) the geographic coverage of existing qualified

1 nonprofit corporations in the nonprofit corporation's proposed  
2 area of service;

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

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

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

11 (h) The governing body of a city by ordinance or resolution  
12 may authorize the incorporation of a nonprofit corporation under  
13 this chapter to act on behalf of such city as its duly constituted  
14 instrumentality for the purpose of exercising the powers set forth  
15 in this subsection. Upon approval by the city, such nonprofit  
16 corporation is authorized to issue its revenue bonds and to loan the  
17 proceeds thereof to an entity that has assumed the outstanding bond  
18 obligations of a nonprofit corporation, such loan being for the  
19 limited purpose of refunding such outstanding bonds. In issuing  
20 the bonds, the nonprofit corporation is considered to be acting on  
21 behalf of the city by which it was created. The bonds to be refunded  
22 must have been originally issued as "qualified scholarship funding  
23 bonds" (within the meaning of that term as defined in section  
24 150(d)(2) of the Internal Revenue Code of 1986, as amended) by a  
25 nonprofit corporation while acting pursuant to subsection (f)  
26 hereof and that subsequently made the election permitted under  
27 section 150(d)(3) of the Internal Revenue Code, as amended. Any

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

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

25 SECTION 4. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2003.