

1-1 By: West, Ogden S.B. No. 1476
1-2 (In the Senate - Filed March 13, 2003; March 20, 2003, read
1-3 first time and referred to Committee on Education; May 9, 2003,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 6, Nays 1; May 9, 2003, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1476 By: West

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the nonprofit corporations eligible to issue bonds to
1-10 finance or purchase guaranteed student loans and authorizing
1-11 certain nonprofit corporations to refund outstanding student loan
1-12 bonds.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. If this Act takes effect before September 1,
1-15 2003, Subdivision (6), Subsection (a), Section 53.47, Education
1-16 Code, is amended to read as follows:

1-17 (6) "Qualified nonprofit corporation" means a
1-18 nonprofit corporation:

1-19 (A) that:

1-20 (i) issued bonds on or after January 1,
1-21 1990, and before January 1, 2001, that qualified as qualified
1-22 student loan bonds under Section 144(b), Internal Revenue Code of
1-23 1986, as amended; or

1-24 (ii) issues bonds the proceeds of which are
1-25 used to refund bonds issued on or after January 1, 1990, and before
1-26 January 1, 2001, that qualified as qualified student loan bonds
1-27 under Section 144(b), Internal Revenue Code of 1986, as amended; or

1-28 (B) that the office of the governor, in
1-29 consultation with the state student loan guaranty agency or any
1-30 other public or private entity the office of the governor considers
1-31 appropriate, has determined meets a need for student loan financing
1-32 that existing qualified nonprofit corporations cannot meet, which
1-33 determination may include information provided by the nonprofit
1-34 corporation's plan for doing business that should include
1-35 documented limitations in:

1-36 (i) the geographic coverage of existing
1-37 qualified nonprofit corporations in the nonprofit corporation's
1-38 proposed area of service;

1-39 (ii) the willingness of existing qualified
1-40 nonprofit corporations to serve the eligible lenders in the
1-41 proposed area of service; and

1-42 (iii) the ability of existing qualified
1-43 nonprofit corporations to serve the eligible lenders in the
1-44 proposed area of service.

1-45 SECTION 2. If this Act takes effect on September 1, 2003,
1-46 Subsection (a), Section 53.47, Education Code, is amended by adding
1-47 Subdivision (6) to read as follows:

1-48 (6) "Qualified nonprofit corporation" means a
1-49 nonprofit corporation:

1-50 (A) that:

1-51 (i) issued bonds on or after January 1,
1-52 1990, and before January 1, 2001, that qualified as qualified
1-53 student loan bonds under Section 144(b), Internal Revenue Code of
1-54 1986, as amended; or

1-55 (ii) issues bonds the proceeds of which are
1-56 used to refund bonds issued on or after January 1, 1990, and before
1-57 January 1, 2001, that qualified as qualified student loan bonds
1-58 under Section 144(b), Internal Revenue Code of 1986, as amended; or

1-59 (B) that the office of the governor, in
1-60 consultation with the state student loan guaranty agency or any
1-61 other public or private entity the office of the governor considers
1-62 appropriate, has determined meets a need for student loan financing
1-63 that existing qualified nonprofit corporations cannot meet, which

2-1 determination may include information provided by the nonprofit
 2-2 corporation's plan for doing business that should include
 2-3 documented limitations in:
 2-4 (i) the geographic coverage of existing
 2-5 qualified nonprofit corporations in the nonprofit corporation's
 2-6 proposed area of service;
 2-7 (ii) the willingness of existing qualified
 2-8 nonprofit corporations to serve the eligible lenders in the
 2-9 proposed area of service; and
 2-10 (iii) the ability of existing qualified
 2-11 nonprofit corporations to serve the eligible lenders in the
 2-12 proposed area of service.

2-13 SECTION 3. Subsection (k), Section 53.47, Education Code,
 2-14 is amended to read as follows:

2-15 (k) The governing body of a city by ordinance or resolution
 2-16 may authorize the incorporation of a nonprofit corporation under
 2-17 this chapter to act on behalf of the city as its duly constituted
 2-18 instrumentality to exercise the powers provided by this subsection.
 2-19 On approval by the governing body of the city, the nonprofit
 2-20 corporation may issue revenue bonds and loan the proceeds of the
 2-21 bonds to an entity that has assumed the outstanding bond
 2-22 obligations of a nonprofit corporation if the loan is for the
 2-23 limited purpose of refunding those outstanding bonds. In issuing
 2-24 the bonds, the nonprofit corporation is considered to be acting on
 2-25 behalf of the city that created the corporation. The bonds to be
 2-26 refunded must have been originally issued as qualified scholarship
 2-27 funding bonds as that term is defined by Section 150(d)(2),
 2-28 Internal Revenue Code of 1986, as amended, by a nonprofit
 2-29 corporation while acting pursuant to Subsection (f) and that
 2-30 subsequently made the election permitted under Section 150(d)(3),
 2-31 Internal Revenue Code of 1986, as amended; provided, however, that
 2-32 any entity whose bonds are refunded under this subsection that
 2-33 proposes to issue stock or other evidence of ownership with respect
 2-34 to such entity shall provide prior notice of such proposed action to
 2-35 the attorney general in sufficient time to permit a full review of
 2-36 such proposed issuance and the terms of the issuance. Any refunding
 2-37 bonds shall be solely the obligation of the nonprofit corporation
 2-38 and do not constitute a debt or obligation of the city. The
 2-39 ordinance or resolution of the city authorizing the incorporation
 2-40 of the corporation must approve the articles of incorporation and
 2-41 any amendments to the articles of incorporation. On dissolution of
 2-42 the corporation, all property owned by the corporation becomes the
 2-43 property of the city. A corporation may be incorporated under this
 2-44 subsection by filing the articles of incorporation with the
 2-45 secretary of state in the manner prescribed for the incorporation
 2-46 of nonprofit corporations under the Texas Non-Profit Corporation
 2-47 Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes). On
 2-48 filing of the articles of incorporation, the secretary of state
 2-49 shall issue a certificate of incorporation showing that the
 2-50 corporation is incorporated under this chapter. Except to the
 2-51 extent provided by this section, Sections 53.131, 53.14, 53.15,
 2-52 53.31, 53.32, 53.35(a), and 53.39 apply to and govern the
 2-53 corporation, its procedures, and its bonds. In addition to the
 2-54 specific powers granted under this subsection, the corporation has
 2-55 all powers granted under the Texas Non-Profit Corporation Act that
 2-56 are necessary, incidental, or subordinate to enable the corporation
 2-57 to carry out the purposes of this subsection [~~Subsection (a)(6)~~
 2-58 ~~expires September 1, 2003. On or after September 1, 2003, in this~~
 2-59 ~~section, the term "qualified nonprofit corporation" means any~~
 2-60 ~~nonprofit corporation authorized by a city to exercise the powers~~
 2-61 ~~of an authority under this section].~~

2-62 SECTION 4. This Act takes effect immediately if it receives
 2-63 a vote of two-thirds of all the members elected to each house, as
 2-64 provided by Section 39, Article III, Texas Constitution. If this
 2-65 Act does not receive the vote necessary for immediate effect, this
 2-66 Act takes effect September 1, 2003.

2-67 * * * * *