

By: Crownover

H.B. No. 2701

A BILL TO BE ENTITLED

AN ACT

relating to higher education authorities.

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

SECTION 1. Chapter 53, Education Code, as amended by Chapters 1266 and 1310, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

CHAPTER 53. HIGHER EDUCATION FACILITY AUTHORITIES FOR PUBLIC  
SCHOOLS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 53.01. SHORT TITLE. This chapter may be cited as the Higher Education Facility Authority for Public Schools Act.

Sec. 53.02. DEFINITIONS. In this chapter:

(1) "City" means an incorporated city or town in this state.

(2) "Governing body" means the council, commission, or other governing body of a city.

(3) "Authority" means a higher education facility authority created under this chapter.

(4) "Board" means the board of directors of an authority.

(5) "Institution of higher education" means ~~[(i)]~~ any institution of higher education as defined by Subdivision (8) of Section 61.003 ~~[of this code, or (ii) a degree-granting college or university corporation accredited by the Texas Education Agency or~~

1 ~~by a recognized accrediting agency, as defined by Subdivision (13)~~  
2 ~~of Section 61.003 of this code, or (iii) a postsecondary career~~  
3 ~~school or college accredited by the Association of Independent~~  
4 ~~Colleges and Schools, the National Association of Trade and~~  
5 ~~Technical Schools, or the National Accrediting Commission of~~  
6 ~~Cosmetology Arts and Sciences].~~

7 (6) "Educational facility" means a classroom  
8 building, laboratory, science building, faculty or administrative  
9 office building, or other facility used exclusively for the conduct  
10 of the educational and administrative functions of an institution  
11 of higher education.

12 (7) "Housing facility" means a single- or multi-family  
13 residence used exclusively for housing or boarding, or housing and  
14 boarding students, faculty, or staff members of an institution of  
15 higher learning. The term includes infirmary and student union  
16 building, but does not include a housing or boarding facility for  
17 the use of a fraternity, sorority, or private club.

18 (8) "Bond resolution" means the resolution  
19 authorizing the issuance of revenue bonds.

20 (9) "Trust indenture" means the mortgage, deed of  
21 trust, or other instrument pledging revenue or ~~of~~ property, or  
22 creating a mortgage lien on property, or both, to secure the revenue  
23 bonds issued by the authority.

24 (10) ~~["Trustee" means the trustee under the trust~~  
25 ~~indenture.~~

26 ~~[(11) "Repurchase agreement" means a simultaneous~~  
27 ~~agreement between a higher education authority and another entity~~

1 ~~in which one of the parties has agreed to purchase investment~~  
2 ~~securities on a specified date and the other party has agreed to~~  
3 ~~repurchase the investment securities at the same price plus accrued~~  
4 ~~interest on a later date, in which the market value of the~~  
5 ~~investment securities purchased is in excess of the amount of the~~  
6 ~~repurchase agreement, and in which the investment securities are so~~  
7 ~~purchased and held separately from all other investment securities,~~  
8 ~~in trust, in order to complete the contractual commitment.~~

9 ~~[(12)] "Accredited primary or secondary school" means a~~  
10 ~~primary or secondary school, including a preschool, that is~~  
11 ~~accredited by an accreditation body that is a member of the Texas~~  
12 ~~Private School Accreditation Commission.~~

13 ~~[(13)]~~ "Authorized charter school" means an  
14 open-enrollment charter school that holds a charter granted under  
15 Subchapter D, Chapter 12.

16 (11) ~~[(14)]~~ "Borrower" means any of the following  
17 entities that is the recipient of a loan made under Section 53.34:

18 (A) an institution of higher education;

19 (B) a nonprofit corporation:

20 (i) incorporated by and under the exclusive  
21 control of an institution of higher education; or

22 (ii) incorporated and operating for the  
23 exclusive benefit of an institution of higher education and  
24 authorized by the governing board of the institution to enter into a  
25 transaction as a borrower under this chapter; or

26 (C) ~~[an accredited primary or secondary school,~~

27 ~~or~~

1                    [~~(D)~~] an accredited or authorized charter  
2 school.

3                    SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

4                    Sec. 53.11. CREATION OF AUTHORITY. When the governing body  
5 of a city finds that it is to the best interest of the city and its  
6 inhabitants to create a higher education facility authority, it  
7 shall pass an ordinance creating the authority and designating the  
8 name by which it shall be known. If the governing bodies of two or  
9 more cities find that it is to the best interest of the cities to  
10 create an authority to include those cities, each governing body  
11 shall pass an ordinance creating the authority and designating the  
12 name by which it shall be known.

13                    Sec. 53.12. TERRITORY. The authority comprises only the  
14 territory included within the boundaries of the city or cities  
15 creating it.

16                    Sec. 53.13. CORPORATE POWERS. An authority is a body  
17 politic and corporate having the power of perpetual succession. It  
18 shall have a seal; it may sue and be sued; and it may make, amend,  
19 and repeal its bylaws.

20                    Sec. 53.131. AUTHORITY'S EARNINGS. A private person may  
21 not share in any of an authority's earnings.

22                    Sec. 53.14. BOARD OF DIRECTORS. (a) The authority shall be  
23 governed by a board of directors consisting of not less than 7 nor  
24 more than 11 members to be determined at the time of creating the  
25 authority. The directors shall be appointed by the governing body  
26 of the city or by the governing bodies of the cities, and they shall  
27 serve until their successors are appointed as provided by this

1 section. If the authority includes more than one city, each  
2 governing body shall appoint an equal number of directors unless  
3 otherwise agreed by the cities.

4 (b) The members of the board serve for two-year terms.

5 (c) No officer or employee of any such city is eligible for  
6 appointment as a director. Directors are not entitled to  
7 compensation for services but are entitled to reimbursement for  
8 expenses incurred in performing such service.

9 Sec. 53.15. ORGANIZATION OF BOARD; QUORUM; EMPLOYEES;  
10 COUNSEL. (a) The board shall elect from among its members a  
11 president and vice president, and shall elect a secretary and a  
12 treasurer who may or may not be directors, and may elect other  
13 officers as authorized by the authority's bylaws. The offices of  
14 secretary and treasurer may be combined.

15 (b) The president has the same right to vote on all matters  
16 as other members of the board.

17 (c) A majority constitutes a quorum, and when a quorum is  
18 present action may be taken by a majority vote of directors present.

19 (d) The board may employ a manager or executive director of  
20 the facilities and other employees, experts, and agents as it sees  
21 fit. It may delegate to the manager the power to employ and  
22 discharge employees.

23 (e) The board may employ legal counsel.

24 SUBCHAPTER C. POWERS AND DUTIES

25 Sec. 53.31. NO TAXING POWER. An authority has no power to  
26 tax.

27 Sec. 53.32. NO POWER OF EMINENT DOMAIN. The authority does

1 not have the power of eminent domain.

2           Sec. 53.33. LIMITED POWER TO ACQUIRE, OWN, AND OPERATE  
3 EDUCATIONAL AND HOUSING FACILITIES. (a) An authority or a  
4 nonprofit instrumentality created under Section 53.35(b) may  
5 acquire, own, hold title to, lease, or operate an educational  
6 facility or housing facility or any facility incidental,  
7 subordinate, or related to or appropriate in connection with an  
8 educational facility or housing facility, but only if:

9           (1) the facility is or will be located within the  
10 corporate limits of the city that created the authority or  
11 nonprofit instrumentality;

12           (2) the governing body of an institution of higher  
13 education officially requests the authority or nonprofit  
14 instrumentality to acquire and own the facility for the benefit of  
15 the institution of higher education;

16           (3) the institution of higher education officially  
17 agrees to accept, and has authority to receive legal title to, the  
18 facility not later than the date on which any bonds or other  
19 obligations issued to acquire the facility are paid in full; and

20           (4) the ownership of the facility by the authority or  
21 the nonprofit instrumentality is approved by official action of the  
22 governing body of:

23           (A) the city that created the authority or  
24 nonprofit instrumentality;

25           (B) the school district in which the facility is  
26 or will be located; and

27           (C) the county in which the facility is or will be

1 located.

2 (b) An authority or instrumentality that exercises the  
3 powers granted by Subsection (a) may contract for the operation of  
4 the facility by public or private entities or persons on the terms  
5 and conditions set forth in a contract relating to the operation of  
6 the facility.

7 (c) The changes in law made by the amendment of this section  
8 by the 78th Legislature, Regular Session, 2003, do not affect the  
9 acquisition, ownership, construction, or improvement of a  
10 facility, or the acquisition and ownership of land that were  
11 approved by official action of the authority or nonprofit corporate  
12 instrumentality before March 15, 2003, and the law in effect  
13 immediately before the effective date of the amendment of this  
14 section by the 78th Legislature, Regular Session, 2003, is  
15 continued in effect for that purpose.

16 Sec. 53.331. REFINANCING FACILITIES. The authority may  
17 refinance any educational or housing facility acquired,  
18 constructed, or improved.

19 Sec. 53.34. REVENUE BONDS. (a) An authority or a nonprofit  
20 instrumentality created under Section 53.35(b), including an  
21 authority or nonprofit instrumentality authorized to own  
22 facilities under Section 53.33(a), may issue and execute revenue  
23 bonds or other obligations to loan or otherwise provide funds to a  
24 borrower if:

25 (1) the governing body of the borrower by official  
26 action requests the issuer of the bonds or other obligations to loan  
27 the proceeds under this subsection;

1           (2) the purpose of the loan is to enable the borrower  
2 to acquire, construct, enlarge, extend, repair, renovate, or  
3 otherwise improve an educational facility or housing facility or  
4 any facility incidental, subordinate, or related to or appropriate  
5 in connection with an educational facility or housing facility, or  
6 for acquiring land to be used for those purposes, or to create  
7 operating and debt service reserves for and to pay issuance costs  
8 related to the bonds or other obligations; and

9           (3) under the terms of the loan, and unless a mortgage  
10 lien granted to secure the loan is in default, the ownership of the  
11 facility is required to be at all times under the exclusive control,  
12 and held for the exclusive benefit, of the borrower.

13           (b) In issuing revenue bonds or other obligations under this  
14 chapter, the issuer of the bonds or other obligations is considered  
15 to be acting on behalf of the city by which it was created.

16           (c) Bonds or other obligations issued under Subsection (a)  
17 shall be payable from and secured by a pledge of the revenues,  
18 income, or assets pledged for the purpose by the borrower. The  
19 bonds or other obligations may be additionally secured by a  
20 mortgage, deed of trust, or chattel mortgage on real or personal  
21 property, or on both real and personal property, if granted by the  
22 borrower.

23           (d) A facility financed with the proceeds of a loan or loans  
24 made to a borrower under Subsection (a) is not required to be  
25 located within the corporate limits of the city that created the  
26 issuer of the bonds or other obligations.

27           (e) An authority or a nonprofit instrumentality that is



1 authorized to acquire and own educational facilities and housing  
2 facilities under Section 53.33(a) may issue and execute revenue  
3 bonds and other obligations for the purpose of acquiring, owning,  
4 and operating the educational and housing facilities, to create  
5 operating reserves for the facilities, and to create debt service  
6 reserves for and to pay issuance costs related to the bonds or other  
7 obligations.

8 (f) Bonds or other obligations issued under Subsection (e)  
9 shall be payable from and secured by a pledge of all or any part of  
10 the gross or net revenues to be derived from the operation of the  
11 educational facilities and housing facilities being acquired and  
12 any other revenues, income, or assets, including the revenues and  
13 income of the educational facilities or housing facilities  
14 previously acquired or subsequently to be acquired. The bonds or  
15 other obligations may be additionally secured by a mortgage, deed  
16 of trust, or chattel mortgage on real or personal property, or on  
17 both real and personal property, if granted by the authority or  
18 nonprofit instrumentality issuing the bonds or other obligations.

19 (g) The changes in law made by the amendment of this section  
20 by the 78th Legislature, Regular Session, 2003, affect and apply  
21 only to transactions involving bonds or other obligations that are  
22 issued or executed under this chapter on or after March 15, 2003.  
23 Bonds or other obligations that are issued or executed under this  
24 chapter before March 15, 2003, are governed by the law in effect  
25 immediately before the amendment of this section by the 78th  
26 Legislature, Regular Session, 2003, and that former law is  
27 continued in effect for that purpose.

1           Sec. 53.35. ISSUANCE OF BONDS; PROCEDURE; ETC. (a) The  
2 bonds shall be authorized by resolution adopted by a majority vote  
3 of a quorum of the board. Bonds authorized under this section shall  
4 be issued in accordance with Chapter 1201, Government Code. The  
5 bonds shall mature serially or otherwise in not to exceed 50 years.  
6 The rate of interest to be borne by the bonds shall not exceed the  
7 maximum rate prescribed by Chapter 1204, Government Code.

8           (b) In addition to or in lieu of establishing an authority  
9 under the provisions of this chapter, the governing body of a city  
10 or cities may request or order created one or more nonprofit  
11 corporations to act on its behalf and as its duly constituted  
12 authority and instrumentality to exercise the powers granted to an  
13 authority under the provisions of Sections 53.33 and 53.34. If a  
14 nonprofit corporation is created for such purposes or agrees to  
15 such request, the directors thereof shall thereafter be appointed  
16 and be subject to removal by the governing body of the city or  
17 cities. In addition to the powers granted under, and subject to the  
18 limitations provided by, Sections 53.33 and 53.34, the corporation  
19 shall have all powers granted under the Texas Non-Profit  
20 Corporation Act for the purpose of aiding institutions of higher  
21 education in providing educational facilities and housing  
22 facilities and facilities incidental, subordinate, or related  
23 thereto or appropriate in connection therewith. In addition to  
24 Sections 53.33 and 53.34 and the Texas Non-Profit Corporation Act,  
25 as amended (Article 1396-1.01 et seq., Vernon's Texas Civil  
26 Statutes), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331,  
27 53.34, 53.35, 53.38, and 53.41 of this code apply to and govern such

1 corporation and its procedures, bonds, and other obligations.

2           Sec. 53.351. BONDS FOR OPEN-ENROLLMENT CHARTER SCHOOL  
3 FACILITIES. (a) The Texas Public Finance Authority shall  
4 establish a nonprofit corporation to issue revenue bonds on behalf  
5 of authorized open-enrollment charter schools for the acquisition,  
6 construction, repair, or renovation of educational facilities of  
7 those schools.

8           (b) The Texas Public Finance Authority shall appoint the  
9 directors of the corporation in consultation with the commissioner  
10 of education. Directors serve without compensation but are  
11 entitled to reimbursement for travel expenses incurred in attending  
12 board meetings. The board shall meet at least once a year.

13           (c) The corporation has all powers granted under the Texas  
14 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's  
15 Texas Civil Statutes) for the purpose of aiding authorized  
16 open-enrollment charter schools in providing educational  
17 facilities. In addition, Sections 53.131, 53.15, 53.31, 53.32,  
18 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and govern  
19 the corporation and its procedures and bonds.

20           (d) The corporation shall adopt rules governing the  
21 issuance of bonds on behalf of an authorized open-enrollment  
22 charter school.

23           (e) The comptroller shall establish a fund dedicated to the  
24 credit enhancement of bonds issued under this section. The fund may  
25 receive donations. The obligation of the fund is limited to an  
26 amount equal to the balance of the fund.

27           (f) A revenue bond issued under this section is not a debt of

1 the state or any state agency, political corporation, or political  
2 subdivision of the state and is not a pledge of the faith and credit  
3 of any of these entities. A revenue bond is payable solely from the  
4 revenue of the authorized open-enrollment charter school on whose  
5 behalf the bond is issued. A revenue bond issued under this section  
6 must contain on its face a statement to the effect that:

7 (1) neither the state nor a state agency, political  
8 corporation, or political subdivision of the state is obligated to  
9 pay the principal of or interest on the bond; and

10 (2) neither the faith and credit nor the taxing power  
11 of the state or any state agency, political corporation, or  
12 political subdivision of the state is pledged to the payment of the  
13 principal of or interest on the bond.

14 (g) An educational facility financed in whole or in part  
15 under this section is exempt from taxation if the facility:

16 (1) is owned by an authorized open-enrollment charter  
17 school;

18 (2) is held for the exclusive benefit of the school;  
19 and

20 (3) is held for the exclusive use of the students,  
21 faculty, and staff members of the school.

22 Sec. 53.36. BOND RESOLUTION; NOTICE; ELECTION. (a) Before  
23 authorizing the issuance of bonds, other than refunding bonds, the  
24 board shall cause a notice to be issued stating that it intends to  
25 adopt a resolution authorizing the issuance of the bonds, the  
26 maximum amount thereof, and the maximum maturity thereof. The  
27 notice shall be published once each week for two consecutive weeks

1 in a newspaper or newspapers having general circulation in the  
2 authority. The first publication shall be at least 14 days prior to  
3 the day set for adopting the bond resolution.

4 (b) If, prior to the day set for the adoption of the bond  
5 resolution, there is presented to the secretary or president of the  
6 board a petition signed by not less than 10 percent of the qualified  
7 voters residing in the city or cities comprising the authority, who  
8 own taxable property in the authority and who have duly rendered it  
9 for taxation to the city in which such property is located or  
10 situated, requesting an election on the proposition for the  
11 issuance of the bonds, the bonds shall not be issued unless an  
12 election is held and a majority vote is in favor of the bonds. The  
13 election shall be called and held in accordance with the procedure  
14 prescribed in Chapter 1251, Government Code, with the board and the  
15 president and secretary performing the functions there assigned to  
16 the governing body of the city, the mayor and city secretary,  
17 respectively. If no such petition is filed, the bonds may be issued  
18 without an election. However, the board may call an election on its  
19 own motion without the filing of the petition.

20 Sec. 53.37. JUNIOR LIEN BONDS; PARITY BONDS. Bonds  
21 constituting a junior lien on the net revenue or properties may be  
22 issued unless prohibited by the bond resolution or trust indenture.  
23 Parity bonds may be issued under conditions specified in the bond  
24 resolution or trust indenture.

25 Sec. 53.38. RESERVES FOR OPERATING AND OTHER EXPENSES.  
26 Money for the payment of not more than two years' interest on the  
27 bonds and an amount estimated by the board to be required for

1 operating expenses during the first year of operation may be set  
2 aside for those purposes out of the proceeds from the sale of the  
3 bonds.

4       Sec. 53.39. REFUNDING BONDS. Bonds may be issued for the  
5 purpose of refunding outstanding bonds in the manner provided in  
6 this chapter for other bonds, and may be exchanged by the  
7 comptroller or sold and the proceeds applied in accordance with the  
8 procedure prescribed by Subchapter B or C, Chapter 1207, Government  
9 Code.

10       Sec. 53.40. APPROVAL OF BONDS; REGISTRATION;  
11 NEGOTIABILITY. Bonds issued under this chapter and the record  
12 relating to their issuance shall be submitted to the attorney  
13 general, and if he finds that they have been issued in accordance  
14 with this chapter and constitute valid and binding obligations of  
15 the authority and are secured as recited therein he shall approve  
16 them, and they shall be registered by comptroller of public  
17 accounts who shall certify the registration thereon. Thereafter  
18 they are incontestable. The bonds shall be negotiable and shall  
19 contain the following provision: "The holder hereof shall never  
20 have the right to demand payment thereof out of money raised or to  
21 be raised by taxation."

22       Sec. 53.41. AUTHORIZED INVESTMENTS. All bonds issued under  
23 this chapter are legal and authorized investments for all banks,  
24 savings banks, trust companies, building and loan associations,  
25 savings and loan associations, and insurance companies of all kinds  
26 and types, and for the interest and sinking funds and other public  
27 funds of any issuer. The bonds are also eligible and lawful

1 security for all deposits of public funds of the State of Texas and  
2 of any issuer, to the extent of the value of the bonds, when  
3 accompanied by any unmatured interest coupons appurtenant to them.

4       Sec. 53.42. INVESTMENT OF FUNDS; SECURITY. To the extent it  
5 is applicable, the law as to the security for and the investment of  
6 funds, applicable to cities, controls the investment of funds  
7 belonging to authority. The bond resolution or the indenture or  
8 both may further restrict the making of investments. The authority  
9 may invest the proceeds of its bonds, until the money is needed, in  
10 the direct obligations of or obligations unconditionally  
11 guaranteed by the United States, to the extent authorized in the  
12 bond resolution or indenture or in both.

13       Sec. 53.43. DEPOSITORIES. The authority may select a  
14 depository or depositories according to the procedures provided by  
15 law for the selection of city depositories, or it may award its  
16 depository contract to the same depository or depositories selected  
17 by the city or cities and on the same terms.

18       Sec. 53.44. OPERATION OF FACILITIES; RATES CHARGED; RESERVE  
19 FUNDS. (a) The facilities may be operated by the authority without  
20 the intervention of private profit for the use and benefit of the  
21 public, or may be leased to an institution of higher education, or  
22 may be operated by the institution under a contract with the  
23 authority, the lease or contract to be in effect until any revenue  
24 bonds issued in connection with it have been finally retired.

25       (b) The board shall charge rates for the use of the  
26 facilities, or for their lease or operation, that are fully  
27 sufficient to pay all expenses in connection with the ownership,

1 operation, and upkeep of the facilities, to pay the interest on the  
2 bonds as it becomes due, to create a sinking fund to pay the bonds as  
3 they become due, and to create and maintain a bond reserve fund and  
4 other funds and reserves that may be provided in the bond resolution  
5 or trust indenture. The bond resolution or trust indenture may  
6 prescribe systems, methods, routines, and procedures under which  
7 the facilities shall be operated.

8       Sec. 53.45. TRANSACTIONS WITH OTHER AGENCIES AND PERSONS.  
9 The authority may borrow money and accept grants from, and enter  
10 into contracts, leases, or other transactions with the United  
11 States, the State of Texas, any municipal corporation in the state,  
12 and any public or private person or corporation resident or  
13 authorized to do business in the state.

14       Sec. 53.46. AUTHORITY EXEMPT FROM TAXATION. Because the  
15 property owned by authority will be held for educational purposes  
16 only and will be devoted exclusively to the use and benefit of the  
17 students, faculty, and staff members of an accredited institution  
18 of higher education, it is exempt from taxation of every character.

19       ~~[Sec. 53.47. GUARANTEED STUDENT LOANS AND ALTERNATE~~  
20 ~~EDUCATION LOANS; BONDS FOR THE PURCHASE OF EDUCATION LOAN NOTES.~~

21 ~~(a) In this section:~~

22       ~~[(1) "Accredited institution" means an institution~~  
23 ~~that has either been recognized by a recognized accrediting agency,~~  
24 ~~as defined by Section 61.003, or accredited by the Accrediting~~  
25 ~~Commission for Independent Colleges and Schools, the Accrediting~~  
26 ~~Commission for Career Schools and Colleges of Technology, or the~~  
27 ~~National Accrediting Commission of Cosmetology Arts and Sciences.~~



1           ~~[(2) "Alternative education loan" means a loan other~~  
2 ~~than a guaranteed student loan that is made to or for the benefit of~~  
3 ~~a student for the purpose of financing all or part of the student's~~  
4 ~~cost of attendance at an accredited institution.~~

5           ~~[(3) "Cost of attendance" means all costs of a student~~  
6 ~~incurred in connection with a program of study at an accredited~~  
7 ~~institution, as determined by the institution, including tuition~~  
8 ~~and instructional fees, the cost of room and board, books,~~  
9 ~~computers, and supplies, and other related fees, charges, and~~  
10 ~~expenses.~~

11           ~~[(4) "Guaranteed student loan" means a loan made by an~~  
12 ~~eligible lender under the Higher Education Act of 1965 (Pub. L. No.~~  
13 ~~89-329), as amended.~~

14           ~~[(5) "Qualified alternative education loan lender"~~  
15 ~~means a nonprofit corporation incorporated under the laws of this~~  
16 ~~state that:~~

17                   ~~[(A) is a qualified nonprofit corporation,~~

18                   ~~[(B) has serviced education loans made under the~~  
19 ~~Higher Education Act of 1965, as amended, for a qualified nonprofit~~  
20 ~~corporation for a period of not less than 10 years; or~~

21                   ~~[(C) is a charitable organization qualified~~  
22 ~~under Section 509(a)(2), Internal Revenue Code of 1986, as amended,~~  
23 ~~that provides services to a qualified nonprofit corporation.~~

24           ~~[(6) "Qualified nonprofit corporation" means a~~  
25 ~~nonprofit corporation:~~

26                   ~~[(A) that issued bonds on or after January 1,~~  
27 ~~1990, and before January 1, 2001, that qualified as qualified~~

1 ~~student loan bonds under Section 144(b), Internal Revenue Code of~~  
2 ~~1986, as amended, or~~

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

11 ~~[(i) the geographic coverage of existing~~  
12 ~~qualified nonprofit corporations in the nonprofit corporation's~~  
13 ~~proposed area of service;~~

14 ~~[(ii) the willingness of existing qualified~~  
15 ~~nonprofit corporations to serve the eligible lenders in the~~  
16 ~~proposed area of service; and~~

17 ~~[(iii) the ability of existing qualified~~  
18 ~~nonprofit corporations to serve the eligible lenders in the~~  
19 ~~proposed area of service.~~

20 ~~[(b) An authority may, upon approval of the city or cities~~  
21 ~~which created the same, issue revenue bonds or otherwise borrow~~  
22 ~~money to obtain funds to purchase or to make guaranteed student~~  
23 ~~loans. Revenue bonds issued for such purpose shall be issued in~~  
24 ~~accordance with and with the effect provided in this chapter,~~  
25 ~~except Section 53.36 shall not apply, as this chapter has been~~  
26 ~~modified by Chapter 1204, Government Code, and Subchapters A and D,~~  
27 ~~Chapter 1207, Government Code. Such bonds shall be payable from and~~

1 ~~secured by a pledge of revenues derived from or by reason of the~~  
2 ~~ownership of guaranteed student loans and investment income after~~  
3 ~~deduction of such expenses of operating the loan program as may be~~  
4 ~~specified by the bond resolution or trust indenture.~~

5 ~~[(c) An authority may cause money to be expended to make or~~  
6 ~~purchase for its account guaranteed student loans that are~~  
7 ~~guaranteed by the Texas Guaranteed Student Loan Corporation or that~~  
8 ~~are executed by or on behalf of students who (1) are residents of~~  
9 ~~this state or (2) have been admitted to attend an accredited~~  
10 ~~institution within this state.~~

11 ~~[(d) The authority shall contract with a nonprofit~~  
12 ~~corporation, organized under the laws of this state, whereby such~~  
13 ~~corporation will provide the reports and other information required~~  
14 ~~for continued participation in the federally guaranteed loan~~  
15 ~~program provided by the Higher Education Act of 1965, as amended.~~

16 ~~[(e) The authority, as a municipal corporation of the state,~~  
17 ~~is charged with a portion of the responsibility of the state to~~  
18 ~~provide educational opportunities in keeping with all applicable~~  
19 ~~state and federal laws. Nothing in this section shall be construed~~  
20 ~~as a prohibition against establishing policies to limit the~~  
21 ~~purchase of guaranteed student loans to guaranteed student loans~~  
22 ~~executed by students attending school in a certain geographical~~  
23 ~~area or by students who are residents of the area.~~

24 ~~[(f) In addition to establishing an authority under the~~  
25 ~~provisions of this chapter, the governing body of a city or cities~~  
26 ~~may request a qualified nonprofit corporation to exercise the~~  
27 ~~powers enumerated and provided in this section for and on its~~

1 ~~behalf. If the qualified nonprofit corporation agrees to exercise~~  
2 ~~such powers, the directors of such corporation shall thereafter be~~  
3 ~~appointed by and be subject to removal by the governing body of the~~  
4 ~~city or cities, and except as provided in this section, Sections~~  
5 ~~53.14, 53.15, 53.31, 53.32, 53.38, and 53.41 through 53.43 apply to~~  
6 ~~and govern such corporation, its procedures, and bonds.~~  
7 ~~Notwithstanding the provisions of Section 53.42, a qualified~~  
8 ~~nonprofit corporation which has been requested to exercise the~~  
9 ~~powers enumerated and requested in this section may invest or cause~~  
10 ~~a trustee or custodian on behalf of such qualified nonprofit~~  
11 ~~corporation to invest its funds, including the proceeds of any~~  
12 ~~bonds, notes, or other obligations issued by such qualified~~  
13 ~~nonprofit corporation and any monies which are pledged to the~~  
14 ~~payment thereof, in:~~

15           ~~[(1) certificates of deposit or other time or demand~~  
16 ~~accounts of banks and savings and loan associations which are~~  
17 ~~insured by the Federal Deposit Insurance Corporation, provided the~~  
18 ~~amount of any certificate of deposit in excess of that covered by~~  
19 ~~such insurance must be secured by a first and prior pledge of~~  
20 ~~government obligations having a market value of not less than 100~~  
21 ~~percent of the excess unless a nationally recognized rating agency~~  
22 ~~has given the senior securities of the bank issuing the certificate~~  
23 ~~of deposit the highest or next to the highest investment rating~~  
24 ~~available,~~

25           ~~[(2) repurchase agreements,~~

26           ~~[(3) guaranteed student loans and alternative~~  
27 ~~education loans, or~~

1           ~~[(4) a security issued by another nonprofit~~  
2 ~~corporation acting under this section.~~

3           ~~[(g) A nonprofit corporation, whether acting at the request~~  
4 ~~of a city or cities under Subsection (f) or acting as a servicer or~~  
5 ~~administrator for another corporation that purchases guaranteed~~  
6 ~~student loans, or that on its own behalf issues securities or~~  
7 ~~otherwise obtains funds to purchase or make guaranteed student~~  
8 ~~loans or alternative education loans, may:~~

9           ~~[(1) exercise the powers granted by the Texas~~  
10 ~~Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's~~  
11 ~~Texas Civil Statutes),~~

12           ~~[(2) service loans purchased or made from its funds or~~  
13 ~~contract with another person to service the loans,~~

14           ~~[(3) grant a security interest in a trust estate~~  
15 ~~securing its securities, and~~

16           ~~[(4) make investments as authorized by Subsection (f).~~

17           ~~[(h) A security interest in a trust estate granted under~~  
18 ~~Subsection (g)(3) is attached and perfected at the time the~~  
19 ~~security interest is executed and delivered by the nonprofit~~  
20 ~~corporation. The security interest grants to the secured party a~~  
21 ~~first prior perfected security interest in the trust estate for the~~  
22 ~~benefit of the secured party without regard to the location of the~~  
23 ~~assets that constitute the trust estate.~~

24           ~~[(i) An alternative education loan may be made under this~~  
25 ~~section only by a qualified alternative education loan lender. An~~  
26 ~~alternative education loan may not be in an amount in excess of the~~  
27 ~~difference between the cost of attendance and the amount of other~~

1 ~~student assistance to the student, other than loans under Section~~  
2 ~~428B(a)(1), Higher Education Act of 1965 (20 U.S.C. Section 1078-2)~~  
3 ~~(relating to parent loans), for which the student borrower may be~~  
4 ~~eligible. An alternative education loan covered by this subsection~~  
5 ~~is subject to Chapter 342, Finance Code, as applicable, except~~  
6 ~~that:~~

7           ~~[(1) the maximum interest rate on the loan may not~~  
8 ~~exceed the rate permitted under Subchapter A, Chapter 303, Finance~~  
9 ~~Code; and~~

10           ~~[(2) application and origination fees may be agreed to~~  
11 ~~by the parties and assessed at the inception of the loan, provided~~  
12 ~~that if any such fees constitute additional interest under~~  
13 ~~applicable law, the effective rate of interest agreed to over the~~  
14 ~~stated term of the loan may not exceed the rate allowed by~~  
15 ~~Subchapter A, Chapter 303, Finance Code, and accrued unpaid~~  
16 ~~interest may be added to unpaid principal at the beginning of the~~  
17 ~~agreed repayment period at the borrower's option and in accordance~~  
18 ~~with the terms of the agreement for purposes of determining the~~  
19 ~~total principal amount due at the inception of the repayment~~  
20 ~~period.~~

21           ~~[(j) An authority or nonprofit corporation making education~~  
22 ~~loans under this section is exempt from the licensing requirements~~  
23 ~~of Chapter 342, Finance Code.]~~

24           Sec. 53.48. BONDS FOR AUTHORIZED CHARTER [~~ACCREDITED~~  
25 ~~PRIMARY OR SECONDARY~~] SCHOOLS. In the same manner that a  
26 corporation may issue and execute bonds or other obligations under  
27 this chapter for an institution of higher education, a corporation

1 created under Section 53.35(b) may issue and execute bonds or other  
2 obligations to finance or refinance educational facilities [~~or~~  
3 ~~housing facilities~~] to be used by [~~an accredited primary or~~  
4 ~~secondary school or by~~] an authorized charter school.

5 [~~Sec. 53.49. BONDS FOR CERTAIN SCHOOLS OWNED AND OPERATED~~  
6 ~~BY NONPROFIT CORPORATIONS. (a) In the same manner that a~~  
7 ~~corporation may issue bonds under this chapter for an institution~~  
8 ~~of higher education, a corporation created under Section 53.35(b)~~  
9 ~~may issue bonds to finance or refinance educational facilities to~~  
10 ~~be used by a school that:~~

11 [~~(1) is located in a county with a population of more~~  
12 ~~than 1,800,000;~~

13 [~~(2) is located within three miles of an area~~  
14 ~~designated as an enterprise zone under Chapter 2303, Government~~  
15 ~~Code;~~

16 [~~(3) provides primary and secondary education to at~~  
17 ~~least 1,000 students;~~

18 [~~(4) is accredited by an organization approved by the~~  
19 ~~Texas Education Agency for private school accreditation; and~~

20 [~~(5) is owned and operated by a corporation created~~  
21 ~~under the Texas Non-Profit Corporation Act (Article 1396-1.01 et~~  
22 ~~seq., Vernon's Texas Civil Statutes).~~

23 [~~(b) Notwithstanding Section 53.34(b), bonds issued under~~  
24 ~~this section may be payable from and secured by a pledge of any~~  
25 ~~revenue or assets pledged for that purpose.]~~

26 SECTION 2. Subtitle A, Title 3, Education Code, is amended  
27 by adding Chapters 53A and 53B to read as follows:

1     CHAPTER 53A. HIGHER EDUCATION FACILITY AUTHORITIES FOR PRIVATE  
2                                     SCHOOLS

3                     SUBCHAPTER A. GENERAL PROVISIONS

4             Sec. 53A.01. SHORT TITLE. This chapter may be cited as the  
5 Higher Education Facility Authority for Private Schools Act.

6             Sec. 53A.02. DEFINITIONS. In this chapter:

7                     (1) "City" means an incorporated city or town in this  
8 state.

9                     (2) "Governing body" means the council, commission, or  
10 other governing body of a city.

11                    (3) "Authority" means a higher education facility  
12 authority created under this chapter.

13                    (4) "Board" means the board of directors of an  
14 authority.

15                    (5) "Institution of higher education" means (i) a  
16 degree-granting college or university corporation accredited by  
17 the Texas Education Agency or by a recognized accrediting agency,  
18 as defined by Section 61.003(13), or (ii) a postsecondary career  
19 school or college accredited by the Association of Independent  
20 Colleges and Schools, the National Association of Trade and  
21 Technical Schools, or the National Accrediting Commission of  
22 Cosmetology Arts and Sciences.

23                    (6) "Educational facility" means a classroom  
24 building, laboratory, science building, faculty or administrative  
25 office building, or other facility used exclusively for the conduct  
26 of the educational and administrative functions of an institution  
27 of higher education.



1           (7) "Housing facility" means a single- or multi-family  
2 residence used exclusively for housing or boarding, or housing and  
3 boarding students, faculty, or staff members of an institution of  
4 higher learning. The term includes infirmary and student union  
5 building, but does not include a housing or boarding facility for  
6 the use of a fraternity, sorority, or private club.

7           (8) "Bond resolution" means the resolution  
8 authorizing the issuance of revenue bonds.

9           (9) "Trust indenture" means the mortgage, deed of  
10 trust, or other instrument pledging revenue or property, or  
11 creating a mortgage lien on property, or both, to secure the revenue  
12 bonds issued by the authority.

13           (10) "Accredited primary or secondary school" means a  
14 primary or secondary school, including a preschool, that is  
15 accredited by an accreditation body that is a member of the Texas  
16 Private School Accreditation Commission.

17           (11) "Borrower" means any of the following entities  
18 that is the recipient of a loan made under Section 53A.34:

19                   (A) an institution of higher education;

20                   (B) a nonprofit corporation:

21                           (i) incorporated by and under the exclusive  
22 control of an institution of higher education; or

23                           (ii) incorporated and operating for the  
24 exclusive benefit of an institution of higher education and  
25 authorized by the governing board of the institution to enter into a  
26 transaction as a borrower under this chapter; or

27                   (C) an accredited primary or secondary school.

1           [Sections 53A.03-53A.10 reserved for expansion]

2           SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

3           Sec. 53A.11. CREATION OF AUTHORITY. When the governing  
4 body of a city finds that it is to the best interest of the city and  
5 its inhabitants to create a higher education facility authority, it  
6 shall pass an ordinance creating the authority and designating the  
7 name by which it shall be known. If the governing bodies of two or  
8 more cities find that it is to the best interest of the cities to  
9 create an authority to include those cities, each governing body  
10 shall pass an ordinance creating the authority and designating the  
11 name by which it shall be known.

12           Sec. 53A.12. TERRITORY. The authority comprises only the  
13 territory included within the boundaries of the city or cities  
14 creating it.

15           Sec. 53A.13. CORPORATE POWERS. An authority is a body  
16 politic and corporate having the power of perpetual succession. It  
17 shall have a seal; it may sue and be sued; and it may make, amend,  
18 and repeal its bylaws.

19           Sec. 53A.131. AUTHORITY'S EARNINGS. A private person may  
20 not share in any of an authority's earnings.

21           Sec. 53A.14. BOARD OF DIRECTORS. (a) The authority shall  
22 be governed by a board of directors consisting of not less than 7  
23 nor more than 11 members to be determined at the time of creating  
24 the authority. The directors shall be appointed by the governing  
25 body of the city or by the governing bodies of the cities, and they  
26 shall serve until their successors are appointed as provided by  
27 this section. If the authority includes more than one city, each

1 governing body shall appoint an equal number of directors unless  
2 otherwise agreed by the cities.

3 (b) The members of the board serve for two-year terms.

4 (c) No officer or employee of any such city is eligible for  
5 appointment as a director. Directors are not entitled to  
6 compensation for services but are entitled to reimbursement for  
7 expenses incurred in performing such service.

8 Sec. 53A.15. ORGANIZATION OF BOARD; QUORUM; EMPLOYEES;  
9 COUNSEL. (a) The board shall elect from among its members a  
10 president and vice president, and shall elect a secretary and a  
11 treasurer who may or may not be directors, and may elect other  
12 officers as authorized by the authority's bylaws. The offices of  
13 secretary and treasurer may be combined.

14 (b) The president has the same right to vote on all matters  
15 as other members of the board.

16 (c) A majority constitutes a quorum, and when a quorum is  
17 present action may be taken by a majority vote of directors present.

18 (d) The board may employ a manager or executive director of  
19 the facilities and other employees, experts, and agents as it sees  
20 fit. It may delegate to the manager the power to employ and  
21 discharge employees.

22 (e) The board may employ legal counsel.

23 [Sections 53A.16-53A.30 reserved for expansion]

24 SUBCHAPTER C. POWERS AND DUTIES

25 Sec. 53A.31. NO TAXING POWER. An authority has no power to  
26 tax.

27 Sec. 53A.32. NO POWER OF EMINENT DOMAIN. The authority does

1 not have the power of eminent domain.

2 Sec. 53A.33. LIMITED POWER TO ACQUIRE, OWN, AND OPERATE  
3 EDUCATIONAL AND HOUSING FACILITIES. (a) An authority or a  
4 nonprofit instrumentality created under Section 53A.35(b) may  
5 acquire, own, hold title to, lease, or operate an educational  
6 facility or housing facility or any facility incidental,  
7 subordinate, or related to or appropriate in connection with an  
8 educational facility or housing facility, but only if:

9 (1) the facility is or will be located within the  
10 corporate limits of the city that created the authority or  
11 nonprofit instrumentality;

12 (2) the governing body of an institution of higher  
13 education officially requests the authority or nonprofit  
14 instrumentality to acquire and own the facility for the benefit of  
15 the institution of higher education;

16 (3) the institution of higher education officially  
17 agrees to accept, and has authority to receive legal title to, the  
18 facility not later than the date on which any bonds or other  
19 obligations issued to acquire the facility are paid in full; and

20 (4) the ownership of the facility by the authority or  
21 the nonprofit instrumentality is approved by official action of the  
22 governing body of:

23 (A) the city that created the authority or  
24 nonprofit instrumentality;

25 (B) the school district in which the facility is  
26 or will be located; and

27 (C) the county in which the facility is or will be

1 located.

2 (b) An authority or instrumentality that exercises the  
3 powers granted by Subsection (a) may contract for the operation of  
4 the facility by public or private entities or persons on the terms  
5 and conditions set forth in a contract relating to the operation of  
6 the facility.

7 (c) The changes in law made by the amendment of this section  
8 by the 78th Legislature, Regular Session, 2003, do not affect the  
9 acquisition, ownership, construction, or improvement of a  
10 facility, or the acquisition and ownership of land that were  
11 approved by official action of the authority or nonprofit corporate  
12 instrumentality before March 15, 2003, and the law in effect  
13 immediately before the effective date of the amendment of this  
14 section by the 78th Legislature, Regular Session, 2003, is  
15 continued in effect for that purpose.

16 Sec. 53A.331. REFINANCING FACILITIES. The authority may  
17 refinance any educational or housing facility acquired,  
18 constructed, or improved.

19 Sec. 53A.34. REVENUE BONDS. (a) An authority or a  
20 nonprofit instrumentality created under Section 53A.35(b),  
21 including an authority or nonprofit instrumentality authorized to  
22 own facilities under Section 53A.33(a), may issue and execute  
23 revenue bonds or other obligations to loan or otherwise provide  
24 funds to a borrower if:

25 (1) the governing body of the borrower by official  
26 action requests the issuer of the bonds or other obligations to loan  
27 the proceeds under this subsection;

1           (2) the purpose of the loan is to enable the borrower  
2 to acquire, construct, enlarge, extend, repair, renovate, or  
3 otherwise improve an educational facility or housing facility or  
4 any facility incidental, subordinate, or related to or appropriate  
5 in connection with an educational facility or housing facility, or  
6 for acquiring land to be used for those purposes, or to create  
7 operating and debt service reserves for and to pay issuance costs  
8 related to the bonds or other obligations; and

9           (3) under the terms of the loan, and unless a mortgage  
10 lien granted to secure the loan is in default, the ownership of the  
11 facility is required to be at all times under the exclusive control,  
12 and held for the exclusive benefit, of the borrower.

13           (b) In issuing revenue bonds or other obligations under this  
14 chapter, the issuer of the bonds or other obligations is considered  
15 to be acting on behalf of the city by which it was created.

16           (c) Bonds or other obligations issued under Subsection (a)  
17 shall be payable from and secured by a pledge of the revenues,  
18 income, or assets pledged for the purpose by the borrower. The  
19 bonds or other obligations may be additionally secured by a  
20 mortgage, deed of trust, or chattel mortgage on real or personal  
21 property, or on both real and personal property, if granted by the  
22 borrower.

23           (d) A facility financed with the proceeds of a loan or loans  
24 made to a borrower under Subsection (a) is not required to be  
25 located within the corporate limits of the city that created the  
26 issuer of the bonds or other obligations.

27           (e) An authority or a nonprofit instrumentality that is

1 authorized to acquire and own educational facilities and housing  
2 facilities under Section 53A.33(a) may issue and execute revenue  
3 bonds and other obligations for the purpose of acquiring, owning,  
4 and operating the educational and housing facilities, to create  
5 operating reserves for the facilities, and to create debt service  
6 reserves for and to pay issuance costs related to the bonds or other  
7 obligations.

8 (f) Bonds or other obligations issued under Subsection (e)  
9 shall be payable from and secured by a pledge of all or any part of  
10 the gross or net revenues to be derived from the operation of the  
11 educational facilities and housing facilities being acquired and  
12 any other revenues, income, or assets, including the revenues and  
13 income of the educational facilities or housing facilities  
14 previously acquired or subsequently to be acquired. The bonds or  
15 other obligations may be additionally secured by a mortgage, deed  
16 of trust, or chattel mortgage on real or personal property, or on  
17 both real and personal property, if granted by the authority or  
18 nonprofit instrumentality issuing the bonds or other obligations.

19 (g) The changes in law made by the amendment of this section  
20 by the 78th Legislature, Regular Session, 2003, affect and apply  
21 only to transactions involving bonds or other obligations that are  
22 issued or executed under this chapter on or after March 15, 2003.  
23 Bonds or other obligations that are issued or executed under this  
24 chapter before March 15, 2003, are governed by the law in effect  
25 immediately before the amendment of this section by the 78th  
26 Legislature, Regular Session, 2003, and that former law is  
27 continued in effect for that purpose.

1       Sec. 53A.35. ISSUANCE OF BONDS; PROCEDURE; ETC. (a) The  
2 bonds shall be authorized by resolution adopted by a majority vote  
3 of a quorum of the board. Bonds authorized under this section shall  
4 be issued in accordance with Chapter 1201, Government Code. The  
5 bonds shall mature serially or otherwise in not to exceed 50 years.  
6 The rate of interest to be borne by the bonds shall not exceed the  
7 maximum rate prescribed by Chapter 1204, Government Code.

8       (b) In addition to or in lieu of establishing an authority  
9 under the provisions of this chapter, the governing body of a city  
10 or cities may request or order created one or more nonprofit  
11 corporations to act on its behalf and as its duly constituted  
12 authority and instrumentality to exercise the powers granted to an  
13 authority under the provisions of Sections 53A.33 and 53A.34. If a  
14 nonprofit corporation is created for such purposes or agrees to  
15 such request, the directors thereof shall thereafter be appointed  
16 and be subject to removal by the governing body of the city or  
17 cities. In addition to the powers granted under, and subject to the  
18 limitations provided by Sections 53A.33 and 53A.34, the corporation  
19 shall have all powers granted under the Texas Non-Profit  
20 Corporation Act for the purpose of aiding institutions of higher  
21 education in providing educational facilities and housing  
22 facilities and facilities incidental, subordinate, or related  
23 thereto or appropriate in connection therewith. In addition to  
24 Sections 53A.33 and 53A.34 and the Texas Non-Profit Corporation  
25 Act, as amended (Article 1396-1.01 et seq., Vernon's Texas Civil  
26 Statutes), Sections 53A.131, 53A.14, 53A.15, 53A.31, 53A.32,  
27 53A.331, 53A.34, 53A.35, 53A.38, and 53A.41 apply to and govern



1 such corporation and its procedures, bonds, and other obligations.

2 Sec. 53A.36. BOND RESOLUTION; NOTICE; ELECTION. (a)

3 Before authorizing the issuance of bonds, other than refunding  
4 bonds, the board shall cause a notice to be issued stating that it  
5 intends to adopt a resolution authorizing the issuance of the  
6 bonds, the maximum amount thereof, and the maximum maturity  
7 thereof. The notice shall be published once each week for two  
8 consecutive weeks in a newspaper or newspapers having general  
9 circulation in the authority. The first publication shall be at  
10 least 14 days prior to the day set for adopting the bond resolution.

11 (b) If, prior to the day set for the adoption of the bond  
12 resolution, there is presented to the secretary or president of the  
13 board a petition signed by not less than 10 percent of the qualified  
14 voters residing in the city or cities comprising the authority, who  
15 own taxable property in the authority and who have duly rendered it  
16 for taxation to the city in which such property is located or  
17 situated, requesting an election on the proposition for the  
18 issuance of the bonds, the bonds shall not be issued unless an  
19 election is held and a majority vote is in favor of the bonds. The  
20 election shall be called and held in accordance with the procedure  
21 prescribed in Chapter 1251, Government Code, with the board and the  
22 president and secretary performing the functions there assigned to  
23 the governing body of the city, the mayor and city secretary,  
24 respectively. If no such petition is filed, the bonds may be issued  
25 without an election. However, the board may call an election on its  
26 own motion without the filing of the petition.

27 Sec. 53A.37. JUNIOR LIEN BONDS; PARITY BONDS. Bonds

1 constituting a junior lien on the net revenue or properties may be  
2 issued unless prohibited by the bond resolution or trust indenture.  
3 Parity bonds may be issued under conditions specified in the bond  
4 resolution or trust indenture.

5 Sec. 53A.38. RESERVES FOR OPERATING AND OTHER EXPENSES.

6 Money for the payment of not more than two years' interest on the  
7 bonds and an amount estimated by the board to be required for  
8 operating expenses during the first year of operation may be set  
9 aside for those purposes out of the proceeds from the sale of the  
10 bonds.

11 Sec. 53A.39. REFUNDING BONDS. Bonds may be issued for the

12 purpose of refunding outstanding bonds in the manner provided in  
13 this chapter for other bonds, and may be exchanged by the  
14 comptroller or sold and the proceeds applied in accordance with the  
15 procedure prescribed by Subchapter B or C, Chapter 1207, Government  
16 Code.

17 Sec. 53A.40. APPROVAL OF BONDS; REGISTRATION;

18 NEGOTIABILITY. Bonds issued under this chapter and the record  
19 relating to their issuance shall be submitted to the attorney  
20 general, and if he finds that they have been issued in accordance  
21 with this chapter and constitute valid and binding obligations of  
22 the authority and are secured as recited therein he shall approve  
23 them, and they shall be registered by comptroller of public  
24 accounts who shall certify the registration thereon. Thereafter,  
25 they are incontestable. The bonds shall be negotiable and shall  
26 contain the following provision: "The holder hereof shall never  
27 have the right to demand payment thereof out of money raised or to

1 be raised by taxation."

2 Sec. 53A.41. AUTHORIZED INVESTMENTS. All bonds issued  
3 under this chapter are legal and authorized investments for all  
4 banks, savings banks, trust companies, building and loan  
5 associations, savings and loan associations, and insurance  
6 companies of all kinds and types, and for the interest and sinking  
7 funds and other public funds of any issuer. The bonds are also  
8 eligible and lawful security for all deposits of public funds of the  
9 State of Texas and of any issuer, to the extent of the value of the  
10 bonds, when accompanied by any unmatured interest coupons  
11 appurtenant to them.

12 Sec. 53A.42. INVESTMENT OF FUNDS; SECURITY. To the extent  
13 it is applicable, the law as to the security for and the investment  
14 of funds, applicable to cities, controls the investment of funds  
15 belonging to authority. The bond resolution or the indenture or  
16 both may further restrict the making of investments. The authority  
17 may invest the proceeds of its bonds, until the money is needed, in  
18 the direct obligations of or obligations unconditionally  
19 guaranteed by the United States, to the extent authorized in the  
20 bond resolution or indenture or in both.

21 Sec. 53A.43. DEPOSITORIES. The authority may select a  
22 depository or depositories according to the procedures provided by  
23 law for the selection of city depositories, or it may award its  
24 depository contract to the same depository or depositories selected  
25 by the city or cities and on the same terms.

26 Sec. 53A.44. OPERATION OF FACILITIES; RATES CHARGED;  
27 RESERVE FUNDS. (a) The facilities may be operated by the authority

1 without the intervention of private profit for the use and benefit  
2 of the public, or may be leased to an institution of higher  
3 education, or may be operated by the institution under a contract  
4 with the authority, the lease or contract to be in effect until any  
5 revenue bonds issued in connection with it have been finally  
6 retired.

7 (b) The board shall charge rates for the use of the  
8 facilities, or for their lease or operation, that are fully  
9 sufficient to pay all expenses in connection with the ownership,  
10 operation, and upkeep of the facilities, to pay the interest on the  
11 bonds as it becomes due, to create a sinking fund to pay the bonds as  
12 they become due, and to create and maintain a bond reserve fund and  
13 other funds and reserves that may be provided in the bond resolution  
14 or trust indenture. The bond resolution or trust indenture may  
15 prescribe systems, methods, routines, and procedures under which  
16 the facilities shall be operated.

17 Sec. 53A.45. TRANSACTIONS WITH OTHER AGENCIES AND PERSONS.  
18 The authority may borrow money and accept grants from, and enter  
19 into contracts, leases, or other transactions with the United  
20 States, the State of Texas, any municipal corporation in the state,  
21 and any public or private person or corporation resident or  
22 authorized to do business in the state.

23 Sec. 53A.46. AUTHORITY EXEMPT FROM TAXATION. Because the  
24 property owned by authority will be held for educational purposes  
25 only and will be devoted exclusively to the use and benefit of the  
26 students, faculty, and staff members of an accredited institution  
27 of higher education, it is exempt from taxation of every character.

1       Sec. 53A.48. BONDS FOR ACCREDITED PRIMARY OR SECONDARY  
2 SCHOOLS. In the same manner that a corporation may issue and  
3 execute bonds or other obligations under this chapter for an  
4 institution of higher education, a corporation created under  
5 Section 53A.35(b) may issue and execute bonds or other obligations  
6 to finance or refinance educational facilities or housing  
7 facilities to be used by an accredited primary or secondary school.

8       Sec. 53A.49. BONDS FOR CERTAIN SCHOOLS OWNED AND OPERATED  
9 BY NONPROFIT CORPORATIONS. (a) In the same manner that a  
10 corporation may issue bonds under this chapter for an institution  
11 of higher education, a corporation created under Section 53A.35(b)  
12 may issue bonds to finance or refinance educational facilities to  
13 be used by a school that:

14           (1) is located in a county with a population of more  
15 than 1,800,000;

16           (2) is located within three miles of an area  
17 designated as an enterprise zone under Chapter 2303, Government  
18 Code;

19           (3) provides primary and secondary education to at  
20 least 1,000 students;

21           (4) is accredited by an organization approved by the  
22 Texas Education Agency for private school accreditation; and

23           (5) is owned and operated by a corporation created  
24 under the Texas Non-Profit Corporation Act (Article 1396-1.01 et  
25 seq., Vernon's Texas Civil Statutes).

26       (b) Notwithstanding Section 53A.34(b), bonds issued under  
27 this section may be payable from and secured by a pledge of any

1 revenue or assets pledged for that purpose.

2 CHAPTER 53B. HIGHER EDUCATION LOAN AUTHORITIES

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 53B.01. SHORT TITLE. This chapter may be cited as the  
5 Higher Education Loan Authority Act.

6 Sec. 53B.02. DEFINITIONS. In this chapter:

7 (1) "Accredited institution" means an institution  
8 that has either been recognized by a recognized accrediting agency,  
9 as defined by Section 61.003, or accredited by the Accrediting  
10 Commission for Independent Colleges and Schools, the Accrediting  
11 Commission for Career Schools and Colleges of Technology, or the  
12 National Accrediting Commission of Cosmetology Arts and Sciences.

13 (2) "Alternative education loan" means a loan other  
14 than a guaranteed student loan that is made to or for the benefit of  
15 a student for the purpose of financing all or part of the student's  
16 cost of attendance at an accredited institution.

17 (3) "Authority" means a higher education loan  
18 authority created under this chapter.

19 (4) "Board" means the board of directors of an  
20 authority.

21 (5) "Bond resolution" means the resolution  
22 authorizing the issuance of revenue bonds.

23 (6) "City" means an incorporated city or town in this  
24 state.

25 (7) "Cost of attendance" means all costs of a student  
26 incurred in connection with a program of study at an accredited  
27 institution, as determined by the institution, including tuition

1 and instructional fees, the cost of room and board, books,  
2 computers, and supplies, and other related fees, charges, and  
3 expenses.

4 (8) "Governing body" means the council, commission, or  
5 other governing body of a city.

6 (9) "Guaranteed student loan" means a loan made by an  
7 eligible lender under the Higher Education Act of 1965 (Pub. L. No.  
8 89-329), as amended.

9 (10) "Qualified alternative education loan lender"  
10 means a nonprofit corporation incorporated under the laws of this  
11 state that:

12 (A) is a qualified nonprofit corporation;

13 (B) has serviced education loans made under the  
14 Higher Education Act of 1965, as amended, for a qualified nonprofit  
15 corporation for a period of not less than 10 years; or

16 (C) is a charitable organization qualified under  
17 Section 509(a)(2), Internal Revenue Code of 1986, as amended, that  
18 provides services to a qualified nonprofit corporation.

19 (11) "Qualified nonprofit corporation" means a  
20 nonprofit corporation:

21 (A) that issued bonds on or after January 1,  
22 1990, and before January 1, 2001, that qualified as qualified  
23 student loan bonds under Section 144(b), Internal Revenue Code of  
24 1986, as amended; or

25 (B) that the office of the governor, in  
26 consultation with the state student loan guaranty agency or any  
27 other public or private entity the office of the governor considers

1 appropriate, has determined meets a need for student loan financing  
2 that existing qualified nonprofit corporations cannot meet, which  
3 determination may include information provided by the nonprofit  
4 corporation's plan for doing business that should include  
5 documented limitations in:

6 (i) the geographic coverage of existing  
7 qualified nonprofit corporations in the nonprofit corporation's  
8 proposed area of service;

9 (ii) the willingness of existing qualified  
10 nonprofit corporations to serve the eligible lenders in the  
11 proposed area of service; and

12 (iii) the ability of existing qualified  
13 nonprofit corporations to serve the eligible lenders in the  
14 proposed area of service.

15 (12) "Repurchase agreement" means a simultaneous  
16 agreement between a higher education loan authority and another  
17 entity in which one of the parties has agreed to purchase investment  
18 securities on a specified date and the other party has agreed to  
19 repurchase the investment securities at the same price plus accrued  
20 interest on a later date, in which the market value of the  
21 investment securities purchased is in excess of the amount of the  
22 repurchase agreement, and in which the investment securities are so  
23 purchased and held separately from all other investment securities,  
24 in trust, in order to complete the contractual commitment.

25 (13) "Trust indenture" means the mortgage, deed of  
26 trust, or other instrument pledging revenue or property, or  
27 creating a mortgage lien on property, or both, to secure the revenue



1 bonds issued by the authority.

2 (14) "Trustee" means the trustee under the trust  
3 indenture.

4 [Sections 53B.03-53B.10 reserved for expansion]

5 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

6 Sec. 53B.11. CREATION OF AUTHORITY. When the governing  
7 body of a city finds that it is to the best interest of the city and  
8 its inhabitants to create a higher education loan authority, it  
9 shall pass an ordinance creating the authority and designating the  
10 name by which it shall be known. If the governing bodies of two or  
11 more cities find that it is to the best interest of the cities to  
12 create an authority to include those cities, each governing body  
13 shall pass an ordinance creating the authority and designating the  
14 name by which it shall be known.

15 Sec. 53B.12. TERRITORY. The authority comprises only the  
16 territory included within the boundaries of the city or cities  
17 creating it.

18 Sec. 53B.13. CORPORATE POWERS. An authority is a body  
19 politic and corporate having the power of perpetual succession. It  
20 shall have a seal; it may sue and be sued; and it may make, amend,  
21 and repeal its bylaws.

22 Sec. 53B.131. AUTHORITY'S EARNINGS. A private person may  
23 not share in any of an authority's earnings.

24 Sec. 53B.14. BOARD OF DIRECTORS. (a) The authority shall  
25 be governed by a board of directors consisting of not less than 7  
26 nor more than 11 members to be determined at the time of creating  
27 the authority. The directors shall be appointed by the governing

1 body of the city or by the governing bodies of the cities, and they  
2 shall serve until their successors are appointed as provided by  
3 this section. If the authority includes more than one city, each  
4 governing body shall appoint an equal number of directors unless  
5 otherwise agreed by the cities.

6 (b) The members of the board serve for two-year terms.

7 (c) No officer or employee of any such city is eligible for  
8 appointment as a director. Directors are not entitled to  
9 compensation for services but are entitled to reimbursement for  
10 expenses incurred in performing such service.

11 Sec. 53B.15. ORGANIZATION OF BOARD; QUORUM; EMPLOYEES;  
12 COUNSEL. (a) The board shall elect from among its members a  
13 president and vice president, and shall elect a secretary and a  
14 treasurer who may or may not be directors, and may elect other  
15 officers as authorized by the authority's bylaws. The offices of  
16 secretary and treasurer may be combined.

17 (b) The president has the same right to vote on all matters  
18 as other members of the board.

19 (c) A majority constitutes a quorum, and when a quorum is  
20 present action may be taken by a majority vote of directors present.

21 (d) The board may employ employees, experts, and agents as  
22 it sees fit. It may delegate to the manager the power to employ and  
23 discharge employees.

24 (e) The board may employ legal counsel.

25 [Sections 53B.16-53B.30 reserved for expansion]

26 SUBCHAPTER C. POWERS AND DUTIES

27 Sec. 53B.31. NO TAXING POWER. An authority has no power to

1 tax.

2 Sec. 53B.32. NO POWER OF EMINENT DOMAIN. The authority does  
3 not have the power of eminent domain.

4 Sec. 53B.35. ISSUANCE OF BONDS; PROCEDURE; ETC. The bonds  
5 shall be authorized by resolution adopted by a majority vote of a  
6 quorum of the board. Bonds authorized under this section shall be  
7 issued in accordance with Chapter 1201, Government Code. The bonds  
8 shall mature serially or otherwise in not to exceed 50 years. The  
9 rate of interest to be borne by the bonds shall not exceed the  
10 maximum rate prescribed by Chapter 1204, Government Code.

11 Sec. 53B.37. JUNIOR LIEN BONDS; PARITY BONDS. Bonds  
12 constituting a junior lien on the net revenue or properties may be  
13 issued unless prohibited by the bond resolution or trust indenture.  
14 Parity bonds may be issued under conditions specified in the bond  
15 resolution or trust indenture.

16 Sec. 53B.38. RESERVES FOR OPERATING AND OTHER EXPENSES.  
17 Money for the payment of not more than two years' interest on the  
18 bonds and an amount estimated by the board to be required for  
19 operating expenses during the first year of operation may be set  
20 aside for those purposes out of the proceeds from the sale of the  
21 bonds.

22 Sec. 53B.39. REFUNDING BONDS. Bonds may be issued for the  
23 purpose of refunding outstanding bonds in the manner provided in  
24 this chapter for other bonds, and may be exchanged by the  
25 comptroller or sold and the proceeds applied in accordance with the  
26 procedure prescribed by Subchapter B or C, Chapter 1207, Government  
27 Code.

1           Sec. 53B.40. APPROVAL OF BONDS; REGISTRATION;  
2 NEGOTIABILITY. Bonds issued under this chapter and the record  
3 relating to their issuance shall be submitted to the attorney  
4 general, and if he finds that they have been issued in accordance  
5 with this chapter and constitute valid and binding obligations of  
6 the authority and are secured as recited therein he shall approve  
7 them, and they shall be registered by comptroller of public  
8 accounts who shall certify the registration thereon. Thereafter,  
9 they are incontestable. The bonds shall be negotiable and shall  
10 contain the following provision: "The holder hereof shall never  
11 have the right to demand payment thereof out of money raised or to  
12 be raised by taxation."

13           Sec. 53B.41. AUTHORIZED INVESTMENTS. All bonds issued  
14 under this chapter are legal and authorized investments for all  
15 banks, savings banks, trust companies, building and loan  
16 associations, savings and loan associations, and insurance  
17 companies of all kinds and types, and for the interest and sinking  
18 funds and other public funds of any issuer. The bonds are also  
19 eligible and lawful security for all deposits of public funds of the  
20 State of Texas and of any issuer, to the extent of the value of the  
21 bonds, when accompanied by any unmatured interest coupons  
22 appurtenant to them.

23           Sec. 53B.42. INVESTMENT OF FUNDS; SECURITY. To the extent  
24 it is applicable, the law as to the security for and the investment  
25 of funds, applicable to cities, controls the investment of funds  
26 belonging to authority. The bond resolution or the indenture or  
27 both may further restrict the making of investments. The authority

1 may invest the proceeds of its bonds, until the money is needed, in  
2 the direct obligations of or obligations unconditionally  
3 guaranteed by the United States, to the extent authorized in the  
4 bond resolution or indenture or in both.

5 Sec. 53B.43. DEPOSITORIES. The authority may select a  
6 depository or depositories according to the procedures provided by  
7 law for the selection of city depositories, or it may award its  
8 depository contract to the same depository or depositories selected  
9 by the city or cities and on the same terms.

10 Sec. 53B.45. TRANSACTIONS WITH OTHER AGENCIES AND PERSONS.  
11 The authority may borrow money and accept grants from, and enter  
12 into contracts, leases, or other transactions with the United  
13 States, the State of Texas, any municipal corporation in the state,  
14 and any public or private person or corporation resident or  
15 authorized to do business in the state.

16 Sec. 53B.47. GUARANTEED STUDENT LOANS AND ALTERNATE  
17 EDUCATION LOANS; BONDS FOR THE PURCHASE OF EDUCATION LOAN NOTES.

18 (a) An authority may, upon approval of the city or cities which  
19 created the same, issue revenue bonds or otherwise borrow money to  
20 obtain funds to purchase or to make guaranteed student loans.  
21 Revenue bonds issued for such purpose shall be issued in accordance  
22 with and with the effect provided in this chapter. Such bonds shall  
23 be payable from and secured by a pledge of revenues derived from or  
24 by reason of the ownership of guaranteed student loans and  
25 investment income after deduction of such expenses of operating the  
26 loan program as may be specified by the bond resolution or trust  
27 indenture.

1       (b) An authority may cause money to be expended to make or  
2 purchase for its account guaranteed student loans that are  
3 guaranteed by the Texas Guaranteed Student Loan Corporation or that  
4 are executed by or on behalf of students who:

5             (1) are residents of this state; or

6             (2) have been admitted to attend an accredited  
7 institution within this state.

8       (c) The authority shall contract with a nonprofit  
9 corporation, organized under the laws of this state, whereby such  
10 corporation will provide the reports and other information required  
11 for continued participation in the federally guaranteed loan  
12 program provided by the Higher Education Act of 1965, as amended.

13       (d) The authority, as a municipal corporation of the state,  
14 is charged with a portion of the responsibility of the state to  
15 provide educational opportunities in keeping with all applicable  
16 state and federal laws. Nothing in this section shall be construed  
17 as a prohibition against establishing policies to limit the  
18 purchase of guaranteed student loans to guaranteed student loans  
19 executed by students attending school in a certain geographical  
20 area or by students who are residents of the area.

21       (e) In addition to establishing an authority under the  
22 provisions of this chapter, the governing body of a city or cities  
23 may request a qualified nonprofit corporation to exercise the  
24 powers enumerated and provided in this section for and on its  
25 behalf. If the qualified nonprofit corporation agrees to exercise  
26 such powers, the directors of such corporation shall thereafter be  
27 appointed by and be subject to removal by the governing body of the

1 city or cities, and except as provided in this section, Sections  
2 53B.14, 53B.15, 53B.31, 53B.32, 53B.38, and 53B.41 through 53B.43  
3 apply to and govern such corporation, its procedures, and bonds.  
4 Notwithstanding the provisions of Section 53B.42, a qualified  
5 nonprofit corporation which has been requested to exercise the  
6 powers enumerated and requested in this section may invest or cause  
7 a trustee or custodian on behalf of such qualified nonprofit  
8 corporation to invest its funds, including the proceeds of any  
9 bonds, notes, or other obligations issued by such qualified  
10 nonprofit corporation and any monies which are pledged to the  
11 payment thereof, in:

12 (1) certificates of deposit or other time or demand  
13 accounts of banks and savings and loan associations which are  
14 insured by the Federal Deposit Insurance Corporation, provided the  
15 amount of any certificate of deposit in excess of that covered by  
16 such insurance must be secured by a first and prior pledge of  
17 government obligations having a market value of not less than 100  
18 percent of the excess unless a nationally recognized rating agency  
19 has given the senior securities of the bank issuing the certificate  
20 of deposit the highest or next to the highest investment rating  
21 available;

22 (2) repurchase agreements;

23 (3) guaranteed student loans and alternative  
24 education loans; or

25 (4) a security issued by another nonprofit corporation  
26 acting under this section.

27 (f) A nonprofit corporation, whether acting at the request

1 of a city or cities under Subsection (e) or acting as a servicer or  
2 administrator for another corporation that purchases guaranteed  
3 student loans, or that on its own behalf issues securities or  
4 otherwise obtains funds to purchase or make guaranteed student  
5 loans or alternative education loans, may:

6 (1) exercise the powers granted by the Texas  
7 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's  
8 Texas Civil Statutes);

9 (2) service loans purchased or made from its funds or  
10 contract with another person to service the loans;

11 (3) grant a security interest in a trust estate  
12 securing its securities; and

13 (4) make investments as authorized by Subsection (e).

14 (g) A security interest in a trust estate granted under  
15 Subsection (f)(3) is attached and perfected at the time the  
16 security interest is executed and delivered by the nonprofit  
17 corporation. The security interest grants to the secured party a  
18 first prior perfected security interest in the trust estate for the  
19 benefit of the secured party without regard to the location of the  
20 assets that constitute the trust estate.

21 (h) An alternative education loan may be made under this  
22 section only by a qualified alternative education loan lender. An  
23 alternative education loan may not be in an amount in excess of the  
24 difference between the cost of attendance and the amount of other  
25 student assistance to the student, other than loans under Section  
26 428B(a)(1), Higher Education Act of 1965 (20 U.S.C. Section 1078-2)  
27 (relating to parent loans), for which the student borrower may be



1 eligible. An alternative education loan covered by this subsection  
2 is subject to Chapter 342, Finance Code, as applicable, except  
3 that:

4 (1) the maximum interest rate on the loan may not  
5 exceed the rate permitted under Subchapter A, Chapter 303, Finance  
6 Code; and

7 (2) application and origination fees may be agreed to  
8 by the parties and assessed at the inception of the loan, provided  
9 that if any such fees constitute additional interest under  
10 applicable law, the effective rate of interest agreed to over the  
11 stated term of the loan may not exceed the rate allowed by  
12 Subchapter A, Chapter 303, Finance Code, and accrued unpaid  
13 interest may be added to unpaid principal at the beginning of the  
14 agreed repayment period at the borrower's option and in accordance  
15 with the terms of the agreement for purposes of determining the  
16 total principal amount due at the inception of the repayment  
17 period.

18 (i) An authority or nonprofit corporation making education  
19 loans under this section is exempt from the licensing requirements  
20 of Chapter 342, Finance Code.

21 SECTION 3. Section 61.0816(a), Education Code, as added by  
22 Chapter 820, Acts of the 78th Legislature, Regular Session, 2003,  
23 is amended to read as follows:

24 (a) The board shall collect and make available to the public  
25 on request information regarding higher education authorities  
26 operating under Chapters [~~Chapter~~] 53, 53A, and 53B and nonprofit  
27 corporations carrying out the functions of higher education

1 authorities under those chapters [~~Chapter 53~~]. For each authority  
2 or corporation, the information must include:

3 (1) the total amount and type of outstanding bonds  
4 issued by the authority or corporation;

5 (2) a description of the programs and activities  
6 administered by the authority or corporation; and

7 (3) with respect to any real property owned by the  
8 authority or corporation:

9 (A) the location and description of the property;

10 (B) the current or proposed use of the property,  
11 including whether the property is under construction or renovation;

12 (C) the method by which the authority or  
13 corporation financed the acquisition, construction, or renovation  
14 of the property;

15 (D) the school, public or private institution of  
16 higher education, or other educational institution for which the  
17 property is being used or proposed to be used;

18 (E) whether the property is exempt from ad  
19 valorem taxes; and

20 (F) the appraised value of the property.

21 SECTION 4. Section 1371.001(4), Government Code, is amended  
22 to read as follows:

23 (4) "Issuer" means:

24 (A) a home-rule municipality that:

25 (i) adopted its charter under Section 5,  
26 Article XI, Texas Constitution;

27 (ii) has a population of 50,000 or more; and

1 (iii) has outstanding long-term  
2 indebtedness that is rated by a nationally recognized rating agency  
3 for municipal securities in one of the four highest rating  
4 categories for a long-term obligation;

5 (B) a conservation and reclamation district  
6 created and organized as a river authority under Section 52,  
7 Article III, or Section 59, Article XVI, Texas Constitution;

8 (C) a joint powers agency organized and operating  
9 under Chapter 163, Utilities Code;

10 (D) a metropolitan rapid transit authority or  
11 regional transportation authority created, organized, and  
12 operating under Chapter 451 or 452, Transportation Code;

13 (E) a conservation and reclamation district  
14 organized or operating as a navigation district under Section 52,  
15 Article III, or Section 59, Article XVI, Texas Constitution;

16 (F) a district organized or operating under  
17 Section 59, Article XVI, Texas Constitution, that has all or part of  
18 two or more municipalities within its boundaries;

19 (G) a state agency, including a state institution  
20 of higher education;

21 (H) a hospital authority created or operating  
22 under Chapter 262 or 264, Health and Safety Code, in a county that:

23 (i) has a population of more than 3.3  
24 million; or

25 (ii) is included, in whole or in part, in a  
26 standard metropolitan statistical area of this state that includes  
27 a county with a population of more than 2.2 million;

1 (I) a hospital district in a county that has a  
2 population of more than two million;

3 (J) a nonprofit corporation organized to  
4 exercise the powers of a higher education loan authority under  
5 Section 53B.47(e) [~~53.47(e)~~], Education Code;

6 (K) a county with a population of 3.3 million or  
7 more;

8 (L) an independent school district that has an  
9 average daily attendance of 50,000 or more as determined under  
10 Section 42.005, Education Code;

11 (M) a municipality or county operating under  
12 Chapter 334, Local Government Code; or

13 (N) a district created under Chapter 335, Local  
14 Government Code.

15 SECTION 5. The purpose of this Act is to reorganize statutes  
16 related to higher education authorities without causing a  
17 substantive change in the law.

18 SECTION 6. This Act takes effect September 1, 2005.