

BILL ANALYSIS

H.B. 1400
By: Dutton
Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2001, the Texas Legislature passed legislation to strengthen the accountability and oversight provisions regarding the operation of open-enrollment charter schools. Included in such legislation was a provision giving the Texas Public Finance Authority the power to create the Charter School Finance Corporation. Through the corporation, charter schools were given additional access to tax-exempt financing for construction and repair of facilities. As these transactions were approved by the Texas Attorney General, some technical problems in the statutes were uncovered.

H.B.1400 amends Section 53.351 of the Education Code to correct these technical issues, primarily to clarify that the bond issues comply with IRS requirements and the applicability of existing state bond issuing procedures. The bill also expands the use of the credit enhancement fund, established under the original law and funded with a federal grant, for bonds for charter schools, and to permit the use of the fund for any type of credit support including direct loans.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. However, in Section 1 of the bill, the language in current law relating to the rulemaking authority of the non-profit corporation established by the Texas Public Finance Authority to issue revenue bonds for authorized open-enrollment charter schools is modified.

ANALYSIS

Due to the complexity of the following provisions, the committee has not substantially paraphrased the statutory language, in order to ensure that the analysis accurately reflects the content of the bill.

The bill amends certain provisions of Section 53.351 of the Education Code:

- to provide that the Texas Public Finance Authority shall establish a nonprofit corporation to act on behalf of the state, as its duly constituted authority and instrumentality, to issue revenue bonds for authorized open enrollment charter schools for the acquisition, construction, repair, or renovation of educational facilities of those schools.
- to provide that the corporation has all powers granted under the Texas Non-Profit Corporation Act , or granted to a nonprofit corporation under the Business Organizations Code, for the purpose of aiding authorized open-enrollment charter schools in providing educational facilities. In addition, Sections 53.131, 53.15, 53.31, 53.32, 53.331, 53.34, 53.35, 53.38, 53.40, and 53.41 apply to and govern the corporation and its procedures and bonds. The corporation may exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and the execution of credit agreements under Chapter 1371, Government Code.
- to provide that the corporation shall adopt rules governing the issuance of bonds under Section 53.351.
- to provide that the comptroller shall establish a fund dedicated to the credit enhancement of bonds issued by any issuer under this subchapter for any open-enrollment charter

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school. The fund may receive donations. The corporation may also use the money held under this subsection to provide loans or other credit support for the obligations of any open-enrollment charter school issued by any issuer in any manner not inconsistent with the Texas Non-Profit Corporation Act, or the provisions of the Business Organizations Code governing nonprofit corporations. The obligation of the fund is limited to an amount equal to the balance of the fund.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.