

BILL ANALYSIS

S.B. 389
By: Shapiro
Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Section 45.053, Education Code, and Internal Revenue Service (IRS) arbitrage provisions restrict the amount of bonds guaranteed by the Permanent School Fund (PSF) to two-and-a-half times the market value or the cost value of the PSF, whichever is less. Projections forecast that the capacity of the PSF will be consumed by new district bond issuances in two to three years. The existing multiplier is not set at the maximum level to allow the highest bond rating. Consequently, the state has flexibility to modify the multiplier rate and provide additional capacity without a subsequent loss in the rating afforded by the bond-backing guarantee. Incremental changes to the multiplier could potentially jeopardize federal authorization because there is no guarantee that the IRS will grant a review each time the state raises the multiplier.

As proposed, S.B. 389 increases the maximum for the multiplier to five times the cost value of the PSF and authorizes the State Board of Education to raise the current multiplier to the level consistent with federal regulations that also guarantees the highest bond rating.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the State Board of Education (board) in SECTION 1 of this bill.

ANALYSIS

This bill amends Section 45.053, Education Code, by amending Subsections (a) and (b) and adding Subsection (d), to provide that, except as provided by Subsection (d), the Commissioner of Education (commissioner) may not approve bonds for guarantee if the approval would result in the total amount of outstanding guaranteed bonds exceeding an amount equal to 2-1/2 times the cost value of the permanent school fund, as estimated by the board and certified by the state auditor.

The bill further provides that each year, the state auditor shall analyze the status of guaranteed bonds as compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the amount of bonds guaranteed is within the limit prescribed by this section.

The bill provides that the board by rule may increase the limit prescribed by Subsection (a) to an amount not to exceed five times the cost value of the permanent school fund, provided that the increased limit is consistent with federal law and regulations and does not prevent the bonds to be guaranteed from receiving the highest available credit rating, as determined by the board. The board shall at least annually consider whether to change any limit in accordance with this subsection. This subsection may not be construed in a manner that impairs, limits, or removes the guarantee of bonds that have been approved by the commissioner.

EFFECTIVE DATE

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