

BILL ANALYSIS

Senate Research Center
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S.B. 1641
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Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Higher Education Coordinating Board (THECB) needs flexibility in the movement of funds so that it can both meet its bond obligations and have more funds available to loan to Texas students. Current law authorizes THECB to issue bonds under the Texas Opportunity Plan fund and sets sinking funds. THECB does not currently have the ability to enter into bond agreements.

As proposed, S.B. 1641 allows THECB to create new interest and sinking funds and establish new reserves, so as to free up more money to make student loans. The bill allows THECB to enter into bond enhancement agreements, such as interest rate swaps or currency swaps. This bill also authorizes THECB to transfer funds between the Texas Opportunity Plan fund and the student loan auxiliary fund.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 52.17, Education Code, by amending Subsections (a), (c), and (d), and adding Subsection (a-1), as follows:

(a) Requires a sufficient portion of certain funds received by the Texas Higher Education Coordinating Board (THECB) each fiscal year to be deposited in the state treasury in the Texas college interest and sinking fund or a THECB interest and sinking fund to pay the interest and principal coming due during the next fiscal year on all outstanding bonds issued under this chapter that are secured by money in, as applicable, the Texas college interest and sinking fund or a THECB interest and sinking fund, and to establish and maintain any reserves required by the THECB resolution authorizing the issuance of bonds. Deletes existing text relating to establishing and maintaining a certain reserve in the fund.

(a-1) Authorizes THECB, with respect to any bonds that remain outstanding under this chapter (Student Loan Program), to take certain actions, subject to the terms of the applicable THECB resolution authorizing the issuance of those bonds.

(c) Makes conforming and nonsubstantive changes.

(d) Authorizes the resolution authorizing the issuance of bonds to provide for the deposit of not more than 36 months', rather than 24 months', interest.

SECTION 2. Amends Subchapter B, Chapter 52, Education Code, by adding Section 52.171, as follows:

Sec. 52.171. BOND ENHANCEMENT AGREEMENTS. Defines "bond enhancement agreement."

(b) Authorizes THECB to at any time enter into one or more bond enhancement agreements (agreement) that THECB determines to be necessary or appropriate to

place the obligation of THECB, as represented by bonds issued under Sections 50b-4, 50b-5, or 50b-6, Article III, Texas Constitution, or under former Sections 50b-2 or 50b-3, Article III, Texas Constitution, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by THECB. Provides that an agreement is an agreement for professional services and is required to contain the terms and be for the period that THECB approves.

(c) Provides that payments due from THECB under an agreement, other than fees and expenses, that relate to the payment of debt service on bonds constitute payments of principal of and interest on the bonds.

(d) Provides that all other payments due from THECB under an agreement, other than fees and expenses, are considered to be for the operation of the student loan program authorized by this chapter and may be made from the Texas Opportunity Plan Fund, the student loan auxiliary fund, a THECB student loan fund, or other money available for the purpose.

(e) Provides that payments received by THECB under an agreement are considered to be repayment of student loans granted under this chapter or under Subchapter Q (Texas B-On-Time Loan Program), Chapter 56, as appropriate.

(f) Authorizes the resolution of THECB authorizing an agreement to authorize the commissioner of higher education (commissioner) or one or more designated officers or employees of THECB to act on behalf of THECB in entering into and delivering the agreement and in determining or setting the counterparty and terms of the agreement specified in the resolution.

(g) Provides that an agreement is not a credit agreement for purposes of Chapter 1371 (Obligations for Certain Public Improvements), Government Code, regardless of whether the bonds relating to the agreement were issued in part under the law, unless THECB provides otherwise in THECB's approval of the agreement.

(h) Provides that this section does not limit the existing powers of THECB, and requires all powers granted by this section to be broadly interpreted and liberally construed to effect the legislative intent and purposes of this section.

SECTION 3. Amends Section 52.19, Education Code, to make a nonsubstantive change.

SECTION 4. Amends Section 52.541(c), Education Code, to authorize THECB to transfer funds between the Texas Opportunity Plan Fund and the student auxiliary fund and among the separate accounts established under this section within those funds under certain circumstances.

SECTION 5. Amends Section 52.82(c), Education Code, to require THECB, if it has determined that the bonds will be sold by competitive bid, to prescribe the manner of giving notice of the sale.

SECTION 6. Repealer: Sections 52.14 (Sale of Bonds), 52.15 (Competitive Bids), and 52.32(d) (relating to the legislature's intent for the Texas Opportunity Plan Fund), Education Code.

SECTION 7. (a) Effective date, except as otherwise provided by Subsection (b) of this section: upon passage or September 1, 2007.

(b) Provides that Section 2 of this Act takes effect on the date on which the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, providing for the issuance of \$500 million in general obligation bonds to finance educational loans to students and authorizing agreements with respect to such bonds takes effect. Provides that if that amendment is not approved by the voters, Section 2 of this Act has no effect.