

By: Strama

H.B. No. 2411

A BILL TO BE ENTITLED

AN ACT

relating to school district depositories.

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

SECTION 1. Section 45.204, Education Code, is amended to read as follows:

Sec. 45.204. CONFLICT OF INTEREST. (a) If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank, the bank is not disqualified from bidding, submitting a proposal, or ~~and~~ becoming the ~~school~~ depository of the ~~school~~ district if the bank is selected by a majority vote of the board of trustees of the district or a majority vote of a quorum when only a quorum is present.

(b) If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank that has bid or submitted a proposal to become a depository for the ~~school~~ district, the member may not vote on awarding a depository contract to the bank, and the contract must be awarded by a majority vote of the trustees as provided by Subsection (a) who are not either a stockholder, officer, director, or employee of a bank receiving a ~~school~~ district depository contract.

SECTION 2. Section 45.205(b), Education Code, is amended to read as follows:

(b) A school district and the district's depository bank may agree to extend a depository contract for two ~~one~~ additional

1 two-year terms [~~term~~]. An extension under this subsection is not  
2 subject to the requirements of Section 45.206.

3 SECTION 3. Sections 45.206 and 45.207, Education Code, are  
4 amended to read as follows:

5 Sec. 45.206. BID OR REQUEST FOR PROPOSAL NOTICES; BID AND  
6 PROPOSAL FORMS [~~FORM~~]. (a) Not later than the 60th day before the  
7 date a school district's current depository contract expires, the  
8 district shall choose whether to select a depository through  
9 competitive bidding or through requests for proposals.

10 (a-1) If a school district chooses under Subsection (a) to  
11 use competitive bidding, the [~~The board of trustees of each school~~]  
12 district shall, not later than the 30th day [~~at least 30 days~~]  
13 before the date [~~termination of~~] the current depository contract  
14 expires, mail to each bank located in the district and, if desired,  
15 to other banks, a notice stating the time and place in which bid  
16 applications will be received for selecting a [~~school~~] depository  
17 or depositories. The notice must include a uniform bid blank in the  
18 form prescribed by State Board of Education rule.

19 (a-2) If a school district chooses under Subsection (a) to  
20 use requests for proposals, the district shall, not later than the  
21 30th day before the date the current depository contract expires,  
22 mail to each bank located in the district and, if desired, to other  
23 banks, a notice stating the time and place in which proposals will  
24 be received for selecting a depository or depositories. The notice  
25 must include a uniform proposal blank in the form prescribed by  
26 State Board of Education rule.

27 (b) The school district may add to the uniform bid or

1 proposal blank other terms that do not unfairly restrict  
2 competition between banks in or near the territory of the [~~school~~]  
3 district.

4 (c) Interest rates may be stated in the bid or proposal  
5 either as a fixed rate, as a percentage of a stated base rate, in  
6 relation to a stated prevailing rate varying from time to time, or  
7 in any other manner, but in every case in a uniform manner, that  
8 will permit comparison with other bids or proposals received.

9 (d) If the school district chooses under Subsection (a) to  
10 use requests for proposals, the district shall state the selection  
11 criteria, including the factors specified under Section 45.207(c),  
12 in the request for proposals and shall select the proposal that  
13 offers the best value to the district based on the evaluation and  
14 ranking of each submitted proposal in relation to the stated  
15 selection criteria. A district may negotiate with the bank that  
16 submits the highest-ranked proposal to determine any terms of the  
17 proposed depository contract other than the interest rates  
18 proposed.

19 Sec. 45.207. AWARD OF CONTRACT. (a) A school district  
20 shall award the depository contract to the bank that submits the  
21 highest bid or the highest-ranked proposal, as determined under  
22 Subsection (c), except that the district may award the contract as  
23 provided by Subsection (a-1) if:

24 (1) the district:

25 (A) receives tying [~~If tie~~] bids [~~are received~~]  
26 for the [~~a school depository~~] contract; or

27 (B) after evaluating the proposals for the

1 contract, ranks two or more proposals equally;

2           (2) [~~and~~] each bank submitting a tying bid or proposal  
3 [~~of the tie bidders~~] has bid or proposed to pay the [~~school~~]  
4 district the maximum interest rates allowed by law by the Board of  
5 Governors of the Federal Reserve System and the Board of Directors  
6 of the Federal Deposit Insurance Corporation; and

7           (3) [~~if~~] the tying [~~tie~~] bids or proposals are  
8 otherwise equal in the judgment and discretion of the board of  
9 trustees of the [~~school~~] district.

10           (a-1) In the case of tying bids or proposals, [~~and if two~~  
11 ~~or more of the tie bidders in the judgment and discretion of the~~  
12 ~~school district have the facilities and ability to provide the~~  
13 ~~necessary services of school depository for the school district,~~]  
14 the board of trustees may award the depository contract by [~~any one~~  
15 ~~of the following methods~~]:

16           (1) [~~awarding the contract, at the discretion of the~~  
17 ~~board of trustees, to any one of the tie bidders,~~

18           [~~2~~] determining by lot which of the banks submitting  
19 the tying bids or proposals [~~tie bidders~~] will receive the  
20 contract; or

21           (2) [~~3~~] awarding a contract to each of the banks  
22 submitting the tying bids or proposals [~~tie bidders or to as many of~~  
23 ~~the tie bidders as the board of trustees selects~~].

24           (b) The board of trustees may, during the period of the  
25 contract, determine the amount of funds to be deposited in each  
26 depository bank and determine the account services offered in the  
27 bid or proposal form that are to be provided by each bank in its

1 capacity as school district depository. All funds received by the  
2 district from or through the agency shall be deposited, at the  
3 district's option, in one depository bank or invested in a public  
4 funds investment pool created under Chapter 791, Government Code,  
5 to be designated by the district.

6 (c) The board of trustees of the school district shall at a  
7 regular or special meeting consider [~~all bids received~~] in  
8 accordance with this subsection each bid or proposal received  
9 [~~section~~]. In determining the highest and best bid or the  
10 highest-ranked proposal, or in case of tying [~~tie~~] bids or  
11 proposals the highest and best tying [~~tie~~] bids or proposals, the  
12 board of trustees shall consider:

13 (1) the interest rate bid or proposed on time  
14 deposits;

15 (2) [~~7~~] charges for keeping district accounts,  
16 records, and reports and furnishing checks;

17 (3) [~~7, and~~] the ability of the bank submitting the bid  
18 or proposal [~~bidder~~] to provide the necessary services and perform  
19 the duties as school district depository; and

20 (4) any other matter [~~7, together with all other~~  
21 ~~matters~~] that in the judgment of the board of trustees would be to  
22 the best interest of the school district.

23 (d) The board of trustees of the school district has the  
24 right to reject any and all bids or proposals.

25 SECTION 4. Section 45.208(a), Education Code, is amended to  
26 read as follows:

27 (a) The bank or banks selected as the [~~school~~] depository or

1 depositories and the school district shall enter into a depository  
2 contract or contracts, bond or bonds, or other necessary  
3 instruments setting forth the duties and agreements pertaining to  
4 the depository, in a form and with the content prescribed by the  
5 State Board of Education. The parties shall attach to the contract  
6 and incorporate by reference the bid or proposal of the depository.

7 SECTION 5. Section 45.209, Education Code, is amended to  
8 read as follows:

9 Sec. 45.209. INVESTMENT OF DISTRICT FUNDS. The school  
10 district may provide in its bid or proposal blank for the right to  
11 place on time deposits with savings and loan institutions located  
12 in this state only funds that are fully insured by the Federal  
13 Deposit Insurance Corporation. A district may not place on deposit  
14 with any savings and loan institution any bond or certificate of  
15 indebtedness proceeds as provided by Section 45.102. A depository  
16 bank may not be compelled without its consent to accept on time  
17 deposit any bond proceeds under Section 45.102, but a depository  
18 bank may offer a bid or proposal of interest equaling the highest  
19 bid or proposal of interest for the time deposit of the bond  
20 proceeds tendered by another bank. If the depository bank equals  
21 the bid or proposal, it is entitled to receive the bond proceeds on  
22 time deposit.

23 SECTION 6. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2007.