

By: Strama (Senate Sponsor - Ogden) H.B. No. 2411
(In the Senate - Received from the House April 30, 2007;
May 2, 2007, read first time and referred to Committee on
Education; May 10, 2007, reported favorably by the following vote:
Yeas 7, Nays 0; May 10, 2007, sent to printer.)

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

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

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

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

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

(b) The school district may add to the uniform bid or proposal blank other terms that do not unfairly restrict competition between banks in or near the territory of the ~~[school]~~ district.

(c) Interest rates may be stated in the bid or proposal either as a fixed rate, as a percentage of a stated base rate, in relation to a stated prevailing rate varying from time to time, or in any other manner, but in every case in a uniform manner, that

will permit comparison with other bids or proposals received.

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

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

(1) the district:

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

(B) after evaluating the proposals for the contract, ranks two or more proposals equally;

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

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

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

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

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

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

(b) The board of trustees may, during the period of the contract, determine the amount of funds to be deposited in each depository bank and determine the account services offered in the bid or proposal form that are to be provided by each bank in its capacity as school district depository. All funds received by the district from or through the agency shall be deposited, at the district's option, in one depository bank or invested in a public funds investment pool created under Chapter 791, Government Code, to be designated by the district.

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

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

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

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

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

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

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

(a) The bank or banks selected as the ~~[school]~~ depository or depositories and the school district shall enter into a depository contract or contracts, bond or bonds, or other necessary instruments setting forth the duties and agreements pertaining to the depository, in a form and with the content prescribed by the State Board of Education. The parties shall attach to the contract and incorporate by reference the bid or proposal of the depository.

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

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

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

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