

By: Williams

S.B. No. 1641

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the student loan program administered by the Texas
3 Higher Education Coordinating Board and to bonds issued in relation
4 to that program.

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

6 SECTION 1. Section 52.17, Education Code, is amended by
7 amending Subsections (a), (c), and (d) and adding Subsection (a-1)
8 to read as follows:

9 (a) Each fiscal year a sufficient portion of the funds
10 received by the board as repayment of student loans granted under
11 this chapter, as interest on the loans, and as other available funds
12 relating to the student loan program shall be deposited in the state
13 treasury in the Texas college interest and sinking fund or a board
14 interest and sinking fund to:

15 (1) pay the interest and principal coming due during
16 the next [~~ensuing~~] fiscal year on [~~and to establish and maintain a~~
17 ~~reserve in the interest and sinking fund equal to the average annual~~
18 ~~principal and interest requirements of~~] all outstanding bonds
19 issued under this chapter that are secured by money [~~funds~~] in, as
20 applicable, the Texas college interest and sinking fund or a board
21 interest and sinking fund; and

22 (2) establish and maintain any reserves required by
23 the board resolution authorizing the issuance of the bonds.

24 (a-1) With respect to any bonds that remain outstanding

1 under this chapter, the board may, subject to the terms of the
2 applicable board resolution authorizing the issuance of those
3 bonds:

4 (1) reduce, eliminate, or replace any reserve portion
5 of the Texas college interest and sinking fund or a board interest
6 and sinking fund; and

7 (2) apply any excess money in accordance with
8 Subsection (b).

9 (c) If [~~In the event that~~] funds received by the board in any
10 fiscal year as repayment of student loans and as interest on the
11 loans are insufficient to pay the interest coming due and the
12 principal maturing on the bonds during the next [~~ensuing~~] fiscal
13 year as described by Subsection (a), the comptroller shall transfer
14 into the Texas college interest and sinking fund and each board
15 interest and sinking fund out of the first money coming into the
16 treasury that [~~, which~~] is not otherwise appropriated by the
17 constitution[~~7~~] an additional amount sufficient to pay that [~~the~~]
18 interest [~~coming due~~] and [~~the~~] principal [~~maturing on the bonds~~
19 ~~during the ensuing fiscal year~~].

20 (d) The resolution authorizing the issuance of the bonds may
21 provide for the deposit, from bond proceeds, of not more than 36
22 [~~24~~] months' interest, and may provide for the use of bond proceeds
23 as a reserve for the payment of principal of and interest on the
24 bonds.

25 SECTION 2. Subchapter B, Chapter 52, Education Code, is
26 amended by adding Section 52.171 to read as follows:

27 Sec. 52.171. BOND ENHANCEMENT AGREEMENTS. (a) In this

1 section, "bond enhancement agreement" means an interest rate swap
2 agreement, currency swap agreement, forward payment conversion
3 agreement, an agreement providing for payments based on levels of
4 or changes in interest rates or currency exchange rates, an
5 agreement to exchange cash flows or a series of payments, or an
6 agreement, including an option, put, or call, to hedge or modify
7 payment, currency, rate, spread, or other exposure.

8 (b) The board at any time may enter into one or more bond
9 enhancement agreements that the board determines to be necessary or
10 appropriate to place the obligation of the board, as represented by
11 bonds issued under Sections 50b-4, 50b-5, or 50b-6, Article III,
12 Texas Constitution, or under former Sections 50b-2 or 50b-3,
13 Article III, Texas Constitution, in whole or in part, on the
14 interest rate, currency, cash flow, or other basis desired by the
15 board. A bond enhancement agreement is an agreement for
16 professional services and must contain the terms and be for the
17 period that the board approves.

18 (c) Payments due from the board under a bond enhancement
19 agreement, other than fees and expenses, that relate to the payment
20 of debt service on bonds constitute payments of principal of and
21 interest on the bonds.

22 (d) All other payments due from the board under a bond
23 enhancement agreement, other than fees and expenses, are considered
24 to be for the operation of the student loan program authorized by
25 this chapter and may be made from the Texas Opportunity Plan Fund,
26 the student loan auxiliary fund, a board student loan fund, or other
27 money available for the purpose.

1 (e) Payments received by the board under a bond enhancement
2 agreement are considered to be repayment of student loans granted
3 under this chapter or under Subchapter Q, Chapter 56, as
4 appropriate.

5 (f) The resolution of the board authorizing a bond
6 enhancement agreement may authorize the commissioner of higher
7 education or one or more designated officers or employees of the
8 board to act on behalf of the board in entering into and delivering
9 the bond enhancement agreement and in determining or setting the
10 counterparty and terms of the bond enhancement agreement specified
11 in the resolution.

12 (g) Unless the board provides otherwise in the board's
13 approval of a bond enhancement agreement, the bond enhancement
14 agreement is not a credit agreement for purposes of Chapter 1371,
15 Government Code, regardless of whether the bonds relating to the
16 bond enhancement agreement were issued in part under that law.

17 (h) This section does not limit the existing powers of the
18 board, and all powers granted by this section shall be broadly
19 interpreted and liberally construed to effect the legislative
20 intent and purposes of this section.

21 SECTION 3. Section 52.19, Education Code, is amended to
22 read as follows:

23 Sec. 52.19. INVESTMENT OF FUNDS. All money in the Texas
24 college interest and sinking fund and in each board interest and
25 sinking fund, including any [~~the~~] reserve portion, and all money in
26 the Texas Opportunity Plan Fund and in the student loan auxiliary
27 fund in excess of the amount necessary for student loans, and all

1 money in each board student loan fund shall be invested by the
2 comptroller in the investments prescribed by board resolution. The
3 board shall furnish to the comptroller a copy of the resolution
4 prescribing authorized investments. The board may sell any
5 instruments owned in the Texas college interest and sinking fund, a
6 board interest and sinking fund, the Texas Opportunity Plan Fund,
7 the student loan auxiliary fund, or a board student loan fund at the
8 prevailing market price. Income from these investments may be
9 deposited in any of those funds.

10 SECTION 4. Section 52.541(c), Education Code, is amended to
11 read as follows:

12 (c) The board may transfer funds between the Texas
13 Opportunity Plan Fund and the student loan auxiliary fund and among
14 the separate accounts established under this section within those
15 funds if:

16 (1) the transfer is approved by the board and is
17 necessary to administer the Texas Opportunity Plan Fund or the
18 student loan auxiliary fund; and

19 (2) the reason for the transfer is documented in the
20 accounting of the funds.

21 SECTION 5. Section 52.82(c), Education Code, is amended to
22 read as follows:

23 (c) The board may sell the bonds at a negotiated sale if the
24 board determines that a negotiated sale is a more efficient and
25 economical method of selling the bonds. If the board has determined
26 that the bonds will be sold by competitive bid, the board by
27 resolution shall prescribe the manner of giving notice of the sale.

1 SECTION 6. The following statutes are repealed:

2 (1) Sections 52.14 and 52.15, Education Code; and

3 (2) Section 52.32(d), Education Code.

4 SECTION 7. (a) Except as otherwise provided by Subsection
5 (b) of this section, this Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2007.

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