BILL ANALYSIS

C.S.H.B. 2805
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Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Temple College at Taylor has operated in east Williamson County since 1997. Growth and increasing demand for course offerings caused Temple College and Taylor community partners to create the East Williamson County Multi-Institution Teaching Center in Taylor, which has grown to include Texas State Technical College Waco, Texas Tech University, and Tarleton State University Central Texas. Legacy, an early college high school program involving Taylor ISD and Hutto ISD, also operates at the center.

The existing center's building and land are at capacity, and the center's annual growth projections are in double digits. To address capacity limitations, five of the center's member institutions pledged $550,000 per year for 20 years to finance the construction of a new building. Unfortunately, because several of these entities required annual approval of their pledges, banks refused to finance the project. The intent of the proposed legislation is to provide statutory authorization and thereby remove the banks' concern about the credit-worthiness of the project. This authorization would apply only to the center and would affect no other multi-institutional teaching center.

C.S.H.B. 2805 authorizes the center's member institutions and other entities to finance physical facilities for use by the center through the issuance of bonds, notes, or other obligations. The bill authorizes the financing to be made through a long-term agreement or through a guarantee of any bond, note, or other obligation. The bill authorizes member institutions and other entities to pledge funds from available revenues, taxes, or a combination thereof. The bill makes the pledges irrevocable and prohibits the amount of the pledges from being reduced while debt is outstanding. The bill designates the financing of facilities for the center as a public purpose of supporting higher education and of diversifying the Texas economy and eliminating unemployment and underemployment in Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2805 amends the Education Code to authorize a member institution of the East Williamson County Multi-Institution Teaching Center, a political subdivision, an entity created by a political subdivision, or a nonprofit corporation to individually or jointly, under the terms of a formal administration agreement, finance or refinance the acquisition, purchase, construction, improvement, renovation, enlargement, or equipping of physical facilities for use by the center through the issuance of bonds, notes, or other obligations. The bill authorizes such financing to be made through a long-term agreement with another member institution, political subdivision, or other entity described above, or through a guarantee of any bond, note, or other obligation. The bill prohibits any bond, note, or other obligation issued or a long-term agreement or guarantee made under these provisions from exceeding a term of 40 years. The bill authorizes any bond, note, or other obligation issued or long-term agreement or guarantee made to finance the center's physical facilities to be pledged as security for and used towards the payment of any bond, note, or other obligation issued for the benefit of the center. The bill provides that a bond, note, or other obligation issued or long-term agreement or guarantee made to finance such facilities is not subject to annual appropriation.

C.S.H.B. 2805 establishes that the financing of such facilities under these provisions promotes the public purpose of supporting higher education and further promotes the public purpose of developing and diversifying the Texas economy and eliminating unemployment and underemployment in Texas under the authority granted by the Texas Constitution.

C.S.H.B. 2805 authorizes a member institution of the center, political subdivision, entity created by a political subdivision, or nonprofit corporation to pledge irrevocably to the payment of bonds, notes, or other obligations issued or a long-term agreement or guarantee made under the above provisions, and to the extent permitted by law, all or any part of the available revenues, taxes, or any combination of revenues and taxes of the member institution, political subdivision, entity, or nonprofit corporation. The bill prohibits the amount of such a pledge from being reduced or abrogated while any bonds, notes, or obligations for which the pledge is made, or bonds, notes, or other obligations issued to refund those bonds, notes, or obligations, are outstanding. The bill authorizes an agreement providing for bonds, notes, or other obligations, or a long-term agreement or guarantee under the above provisions to provide for a member institution, political subdivision, or entity created by a political subdivision, or nonprofit corporation to have an ownership or other interest in the facilities to be financed by the bonds, notes, or obligations, or long-term agreements or guarantees, or to participate in the facility's operation.

C.S.H.B. 2805 authorizes a member institution of the center, political subdivision, entity created by a political subdivision, or nonprofit corporation to use a higher education facility authority for public or private schools to accomplish the purposes of these provisions. The bill makes its provisions wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by the bill's provisions without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by the bill's provisions. The bill provides that its provisions prevail and control to the extent of any conflict or inconsistency between its provisions and any other law. The bill authorizes a member institution of the center, political subdivision, entity created by a political subdivision, or nonprofit corporation to use any law not in conflict with the bill's provisions to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by these provisions.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2805 differs from the original by using "a member institution of the center," rather than "an institution of higher education that participates in the center," which reflects current statutory language. The substitute authorizes a member institution of the center, a political subdivision, an entity created by a political subdivision, or a nonprofit corporation, to finance or refinance physical facilities for use by the center through the issuance of bonds, notes, or other obligations, whereas the original authorizes, to the extent permitted by law, an institution of higher education that participates in the center, a political subdivision, or an entity, including a nonprofit corporation, created by an institution or political subdivision for the benefit of the center, to finance facilities for use by the center through the issuance of bonds or other obligations. The substitute adds a provision not in the original authorizing the financing of such facilities to be made through a long-term agreement with another member institution, political subdivision, or other entity described above, or through a guarantee of any bond, note, or other obligation. The substitute removes a provision in the original designating the financing of such facilities as a public purpose of the institution, political subdivision, or created entity participating in the financing.

C.S.H.B. 2805 prohibits any financing obligations issued or a long-term financing agreement or guarantee made under the substitute's provisions from exceeding a term of 40 years, rather than 30 years as in the original. The substitute adds a provision not in the original authorizing any such financing obligations, agreement, or guarantee to be pledged as security for and used towards the payment of any bond, note, or other obligation issued for the benefit of the center. The substitute adds a provision not in the original providing that any such financing obligations, agreement, or guarantee is not subject to annual appropriation.

C.S.H.B. 2805 adds a provision not in the original establishing that the financing of such facilities promotes the public purpose of supporting higher education and of developing and diversifying the Texas economy and eliminating unemployment and underemployment in Texas.

C.S.H.B. 2805 authorizes the financing entities described in the substitute to pledge irrevocably to the payment of the financing obligations, agreement, or guarantee described in the substitute, and, to the extent permitted by law, all or any part of the available revenues, taxes, or any combination of revenues and taxes of the financing entities, whereas the original authorizes the financing entities described in the original to pledge irrevocably to the payment of the financing obligations described in the original, all or any part of the available revenue funds of the financing entities.

C.S.H.B. 2805 authorizes an agreement providing for the financing obligations, agreement, or guarantee described in the substitute to provide for the financing entities described in the substitute to have an ownership or other interest in the facilities to be financed or to participate in the facility's operation, whereas the original authorizes such an agreement with respect to the financing entities and financial obligations described in the original.

C.S.H.B. 2805 adds a provision not in the original authorizing a financing entity described in the substitute to use a higher education facility authority for public or private schools to accomplish the substitute's provisions.

C.S.H.B. 2805 adds provisions not in the original establishing the sufficiency of the authority of the substitute's provisions and establishing that the substitute's provisions prevail in case of conflict with other law. The substitute adds a provision not in the original authorizing the financing entities described in the substitute to use any law not in conflict with the substitute's provisions to the extent convenient or necessary to carry out any power or authority granted by the substitute's provisions.