

BILL ANALYSIS

S.B. 2240
By: Zaffirini
Higher Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, little or no oversight exists for certain higher education facility authorities. While the bonds that they authorize are not obligations of the state, they are financial expenses to the borrowing institution, and ultimately could render institutions in need of additional state aid. The creation of an oversight mechanism in the form of notification to the governor, lieutenant governor, speaker of the house of representatives, and the Legislative Budget Board when other bonds such as general obligation bonds and revenue bonds are issued would help prevent financial hardships for cities and institutions.

Officers and employees of cities are prohibited from serving on the facility authority board. Many boards do not meet after the initial issuance of debt. As a result, a crisis is compounded when meetings are needed but board members have moved or cannot be located. Allowing officers and city employees to serve will allow the board of directors agility in moving quickly and easily to call board meetings when necessary.

Finally, the definition of "educational facilities" does not include athletic facilities. Under current law, bonds are allowed to fund educational and housing facilities but athletic facilities are not included. The attorney general's office approves athletic facilities on a case-by-case basis, and only if the institution can show how it will be used for educational purposes. Private universities and colleges have limited financing options for athletic facilities.

The bill attempts to resolve this issues by amending current law relating to the financing of educational and related facilities by higher education facility authorities or nonprofit corporations performing the functions of those authorities and to the governance of certain higher education facility authorities.

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

The bill amends the Section 53.35(b) of the Education Code, to include Section 53.40 among the sections of this code that apply to and govern a nonprofit corporation and its procedures, bonds, and other obligations.

The bill further amends the Education Code by requiring that bonds issued under chapter 53 of the Education Code and the record relating to their issuance be submitted to the attorney general, and if the attorney general, rather than he, finds that they have been issued in accordance with this chapter and constitute valid and binding obligations of the authority and are secured as recited therein, the attorney general is required to approve them, and they are required to be registered by the comptroller of public accounts (comptroller), who is required to certify the registration thereon. Prohibits the attorney general, if the attorney general does not find that the bonds have been issued in accordance with this chapter and constitute valid and binding obligations of the authority and are secured as recited therein, from approving the bonds, and prohibits the bonds from being registered by the comptroller. Makes conforming and nonsubstantive changes.

The bill also requires the higher education facility authority, when bonds to be issued to benefit an institution of higher education and the record relating to their issuance are submitted to the attorney general, to deliver notice of that action to the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board. Requires that the notice include the amount of the bonds to be issued and a description of the facilities to be financed from the bond proceeds.

The bill also deletes existing text providing that no officer or employee of any such city is eligible for appointment as a director. The bill also redefines "educational facility."

EFFECTIVE DATE

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