

By: Hochberg

H.B. No. 2894

A BILL TO BE ENTITLED

AN ACT

relating to additional guarantees for certain bonds issued by school districts.

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

SECTION 1. Chapter 45, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. ADDITIONAL GUARANTEE FOR BONDS

Sec. 45.251. DEFINITIONS. In this subchapter:

(1) "Board" means the State Board of Education.

(2) "Paying agent" means the financial institution that is designated by a school district as the district's agent for the payment of the principal of and interest on guaranteed bonds.

Sec. 45.252. GUARANTEE. (a) If a school district's application for guarantee of district bonds by the corpus and income of the permanent school fund as provided by Subchapter C is rejected, the district may apply under this subchapter for guarantee of bonds issued under Subchapter A, including refunding bonds, by money appropriated for the Foundation School Program that may be used for the purpose, other than money that:

(1) is appropriated for the school facilities assistance program under Chapter 46;

(2) is necessary for purposes of Section 46.009(b)(1) or 46.035; or

(3) is appropriated from the available school fund.

1       (b) School district bonds may not be guaranteed under both  
2 Subchapter C and this subchapter.

3       Sec. 45.253. ELIGIBILITY. To be eligible for approval by  
4 the commissioner under this subchapter, bonds must be:

5           (1) issued in the manner provided by Section 45.054;  
6 and

7           (2) payable from an ad valorem tax under Section  
8 45.003.

9       Sec. 45.254. USE OF FOUNDATION SCHOOL PROGRAM  
10 APPROPRIATIONS AS GUARANTEE. Money appropriated for the Foundation  
11 School Program that may be used for the purpose under this  
12 subchapter and under any other law, rule, or regulation shall be  
13 used to guarantee eligible bonds as provided by this subchapter,  
14 the General Appropriations Act, and board rule if using the  
15 permanent school fund to guarantee particular bonds would result  
16 in:

17           (1) a total amount of outstanding bonds guaranteed by  
18 the permanent school fund exceeding the amount authorized under:

19                   (A) Section 45.053; or

20                   (B) federal law or regulations; or

21           (2) the use of a portion of the cost value of the  
22 permanent school fund reserved under Section 45.0531, as determined  
23 by the board and certified by the state auditor.

24       Sec. 45.255. APPLICATION FOR GUARANTEE. (a) A school  
25 district seeking the guarantee of eligible bonds shall apply to the  
26 commissioner using a form adopted by the commissioner for the  
27 purpose. The commissioner may adopt a single form on which a

1 district seeking the guarantee of eligible bonds may apply  
2 simultaneously for a guarantee first under Subchapter C, and then,  
3 if that guarantee is rejected, for a guarantee under this  
4 subchapter.

5 (b) An application under Subsection (a) must:

6 (1) include the information required by Section  
7 45.055(b); and

8 (2) be accompanied by a fee set by board rule in an  
9 amount designed to cover the costs of administering the guarantee  
10 of the bonds.

11 Sec. 45.256. INVESTIGATION. (a) Following receipt of an  
12 application for the guarantee of bonds, the commissioner shall  
13 conduct an investigation of the applicant school district as  
14 provided for an investigation under Section 45.056(a).

15 (b) If following the investigation under Subsection (a) the  
16 commissioner is satisfied that the school district's bonds should  
17 be guaranteed under Subchapter C or this subchapter, as applicable,  
18 the commissioner shall endorse the bonds.

19 Sec. 45.257. GUARANTEE ENDORSEMENT. (a) The commissioner  
20 shall endorse bonds approved for guarantee under this subchapter in  
21 the manner provided under Section 45.057 for endorsing bonds  
22 approved under Subchapter C.

23 (b) The guarantee is not effective unless the attorney  
24 general approves the bonds under Section 45.005.

25 Sec. 45.258. NOTICE OF DEFAULT. Immediately following a  
26 determination that a school district will be or is unable to pay  
27 maturing or matured principal or interest on a guaranteed bond, but

1 not later than the fifth day before maturity date, the school  
2 district shall notify the commissioner.

3 Sec. 45.259. PAYMENT FROM GUARANTEE FUNDS. (a)  
4 Immediately following receipt of notice under Section 45.258, the  
5 commissioner shall instruct the comptroller to transfer to the  
6 district's paying agent from appropriations to the Foundation  
7 School Program that may be used for the purpose under Section 45.252  
8 and other law the amount necessary to pay the maturing or matured  
9 principal or interest.

10 (b) Immediately following receipt of the funds for payment  
11 of the principal or interest, the paying agent shall pay the amount  
12 due and forward the canceled bond or coupon to the comptroller. The  
13 comptroller shall hold the canceled bond or coupon on behalf of the  
14 Foundation School Program.

15 (c) Following full reimbursement to the Foundation School  
16 Program, with interest, the comptroller shall further cancel the  
17 bond or coupon and forward it to the school district for which  
18 payment was made.

19 (d) If money appropriated for the Foundation School Program  
20 is used for purposes of this subchapter and, as a result there is  
21 insufficient money to fully fund the Foundation School Program, the  
22 commissioner shall, to the extent necessary, reduce each school  
23 district's foundation school fund allocations in the same manner  
24 provided by Section 42.253(h) for a case in which school district  
25 entitlements exceed the amount appropriated.

26 Sec. 45.260. BONDS NOT ACCELERATED ON DEFAULT. If a school  
27 district fails to pay principal or interest on a guaranteed bond

1 when the bond matures, other amounts not yet mature are not  
2 accelerated and do not become due by virtue of the district's  
3 default.

4 Sec. 45.261. REIMBURSEMENT OF FOUNDATION SCHOOL  
5 FUND. (a) If the commissioner orders payment from the money  
6 appropriated to the Foundation School Program on behalf of a school  
7 district, the commissioner shall direct the comptroller to withhold  
8 the amount paid, plus interest, from the first state money payable  
9 to the district. The amount withheld shall be deposited to the  
10 credit of the foundation school fund.

11 (b) In accordance with commissioner rules, the commissioner  
12 may authorize reimbursement to the foundation school fund with  
13 interest in a manner other than that provided by this section.

14 (c) The commissioner may order a school district to set an  
15 ad valorem tax rate capable of producing an amount of revenue  
16 sufficient to enable the district to:

- 17 (1) provide reimbursement under this section; and  
18 (2) pay the remaining principal of and interest on the  
19 bonds as the principal and interest become due.

20 (d) If a school district fails to comply with the  
21 commissioner's order under Subsection (c), the commissioner may  
22 impose any sanction on the district authorized to be imposed on a  
23 district under Subchapter G, Chapter 39, including appointment of  
24 a board of managers or annexation to another district, regardless  
25 of the district's accreditation status or the duration of a  
26 particular accreditation status.

27 (e) Any part of a school district's tax rate attributable to

1 producing revenue for purposes of Subsection (c)(1):

2 (1) is not considered part of the district's tax rate  
3 for purposes of the tax rate limit under Section 45.0031; and

4 (2) is considered part of the district's:

5 (A) current debt rate for purposes of computing a  
6 rollback tax rate under Section 26.08, Tax Code; and

7 (B) interest and sinking fund tax rate.

8 Sec. 45.262. REPEATED DEFAULTS. (a) If a total of two or  
9 more payments are made under Subchapter C or this subchapter on the  
10 guaranteed bonds of a school district and the commissioner  
11 determines that the district is acting in bad faith under the  
12 guarantee, the commissioner may request the attorney general to  
13 institute appropriate legal action to compel the district and the  
14 district's officers, agents, and employees to comply with the  
15 duties required of them by law in regard to the bonds.

16 (b) Jurisdiction of proceedings under this section is in  
17 district court in Travis County.

18 Sec. 45.263. RULES. The commissioner may adopt rules  
19 necessary for the administration of the bond guarantee program  
20 under this subchapter.

21 SECTION 2. Sections 45.053(a), (b), and (c), Education  
22 Code, are amended to read as follows:

23 (a) Except as provided by Subsection (d), the commissioner  
24 may not approve bonds for guarantee under this subchapter if the  
25 approval would result in the total amount of outstanding guaranteed  
26 bonds under this subchapter exceeding an amount equal to 2-1/2  
27 times the cost value of the permanent school fund, as estimated by

1 the board and certified by the state auditor.

2 (b) Each year, the state auditor shall analyze the status of  
3 guaranteed bonds under this subchapter as compared to the cost  
4 value of the permanent school fund. Based on that analysis, the  
5 state auditor shall certify whether the amount of bonds guaranteed  
6 under this subchapter is within the limit prescribed by this  
7 section.

8 (c) The commissioner shall prepare and the board shall adopt  
9 an annual report on the status of the guaranteed bond program under  
10 this subchapter.

11 SECTION 3. Subchapter C, Chapter 45, Education Code, is  
12 amended by adding Section 45.0531 to read as follows:

13 Sec. 45.0531. ADDITIONAL LIMITATION: RESERVATION OF  
14 PERCENTAGE OF PERMANENT SCHOOL FUND VALUE. (a) In addition to the  
15 limitation on the approval of bonds for guarantee under Section  
16 45.053, the board by rule may establish a percentage of the cost  
17 value of the permanent school fund to be reserved from use in  
18 guaranteeing bonds under this subchapter.

19 (b) If the board has reserved a portion of the permanent  
20 school fund under Subsection (a), each year, the state auditor  
21 shall analyze the status of the reserved portion compared to the  
22 cost value of the permanent school fund. Based on that analysis,  
23 the state auditor shall certify whether the portion of the  
24 permanent school fund reserved from use in guaranteeing bonds under  
25 this subchapter satisfies the reserve percentage established.

26 (c) If the board has reserved a portion of the permanent  
27 school fund under Subsection (a), the board shall at least annually

1 consider whether to change the reserve percentage established to  
2 ensure that the reserve percentage allows compliance with federal  
3 law and regulations and serves to enable bonds guaranteed under  
4 this subchapter to receive the highest available credit rating, as  
5 determined by the board.

6 (d) This section may not be construed in a manner that  
7 impairs, limits, or removes the guarantee of bonds that have been  
8 approved by the commissioner.

9 SECTION 4. Section 45.054, Education Code, is amended to  
10 read as follows:

11 Sec. 45.054. ELIGIBILITY. To be eligible for approval by  
12 the commissioner, bonds must be:

13 (1) issued under Subchapter A of this chapter or under  
14 Subchapter A, Chapter 1207, Government Code, to make a deposit  
15 under Subchapter B or C of that chapter, by an accredited school  
16 district; and

17 (2) payable from an ad valorem tax under Section  
18 45.003.

19 SECTION 5. Section 45.055, Education Code, is amended to  
20 read as follows:

21 Sec. 45.055. APPLICATION FOR GUARANTEE. (a) A school  
22 district seeking the guarantee of eligible bonds shall apply to the  
23 commissioner using a form adopted by the commissioner for the  
24 purpose. The commissioner may adopt a single form on which a  
25 district seeking the guarantee of eligible bonds may apply  
26 simultaneously first for a guarantee under this subchapter and  
27 then, if that guarantee is rejected, for a guarantee under



1 Subchapter I.

2 (b) An [The] application under Subsection (a) must include:

3 (1) the name of the school district and the principal  
4 amount of the bonds to be issued;

5 (2) the name and address of the district's paying agent  
6 for those bonds; and

7 (3) the maturity schedule, estimated interest rate,  
8 and date of the bonds.

9 (c) An [The] application under Subsection (a) must be  
10 accompanied by a fee set by rule of the board in an amount designed  
11 to cover the costs of administering the guarantee of the bonds  
12 ~~[program]~~.

13 SECTION 6. Section 45.056(b), Education Code, is amended to  
14 read as follows:

15 (b) If following the investigation the commissioner is  
16 satisfied that the school district's bonds should be guaranteed  
17 under this subchapter or Subchapter I, as applicable, the  
18 commissioner shall endorse the bonds.

19 SECTION 7. Section 45.061, Education Code, is amended by  
20 adding Subsections (c) and (d) to read as follows:

21 (c) The commissioner may order a school district to set an  
22 ad valorem tax rate capable of producing an amount of revenue  
23 sufficient to enable the district to:

24 (1) provide reimbursement under this section; and

25 (2) pay the principal of and interest on district  
26 bonds as the principal and interest become due.

27 (d) If a school district fails to comply with the

1 commissioner's order under Subsection (c), the commissioner may  
2 impose any sanction on the district authorized to be imposed on a  
3 district under Subchapter G, Chapter 39, including appointment of  
4 a board of managers or annexation to another district, regardless  
5 of the district's accreditation status or the duration of a  
6 particular accreditation status.

7 SECTION 8. Section 45.062(a), Education Code, is amended to  
8 read as follows:

9 (a) If a total of two or more payments [~~from the permanent~~  
10 ~~school fund~~] are made under this subchapter or Subchapter I on the  
11 guaranteed bonds of a school district and the commissioner  
12 determines that the school district is acting in bad faith under the  
13 guarantee, the commissioner may request the attorney general to  
14 institute appropriate legal action to compel the school district  
15 and its officers, agents, and employees to comply with the duties  
16 required of them by law in regard to the bonds.

17 SECTION 9. Section 45.001(a), Education Code, is amended to  
18 read as follows:

19 (a) The governing board of an independent school district,  
20 including the city council or commission that has jurisdiction over  
21 a municipally controlled independent school district, the  
22 governing board of a rural high school district, and the  
23 commissioners court of a county, on behalf of each common school  
24 district under its jurisdiction, may:

25 (1) issue bonds for:

26 (A) the construction, acquisition, and equipment  
27 of school buildings in the district;

1                   (B) the acquisition of property or the  
2 refinancing of property financed under a contract entered under  
3 Subchapter A, Chapter 271, Local Government Code, regardless of  
4 whether payment obligations under the contract are due in the  
5 current year or a future year;

6                   (C) the purchase of the necessary sites for  
7 school buildings; and

8                   (D) the purchase of new school buses; and

9                   (2) may levy, pledge, assess, and collect annual ad  
10 valorem taxes sufficient to pay:

11                   (A) the principal of and interest on the bonds as  
12 the principal and interest become due, subject to Section 45.003;  
13 and

14                   (B) any reimbursement under Section 45.061 or  
15 45.261.

16           SECTION 10. This Act takes effect immediately if it  
17 receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this Act takes effect September 1, 2009.