

AN ACT

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.

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

SECTION 1. Subsection (b), Section 53.35, Education Code, is amended to read as follows:

(b) In addition to or in lieu of establishing an authority under the provisions of this chapter, the governing body of a city or cities may request or order created one or more nonprofit corporations to act on its behalf and as its duly constituted authority and instrumentality to exercise the powers granted to an authority under the provisions of Sections 53.33 and 53.34. If a nonprofit corporation is created for such purposes or agrees to such request, the directors thereof shall thereafter be appointed and be subject to removal by the governing body of the city or cities. In addition to the powers granted under, and subject to the limitations provided by, Sections 53.33 and 53.34, the corporation shall have all powers granted under the Texas Non-Profit Corporation Act for the purpose of aiding institutions of higher education in providing educational facilities and housing facilities and facilities incidental, subordinate, or related thereto or appropriate in connection therewith. In addition to

1 Sections 53.33 and 53.34 and the Texas Non-Profit Corporation Act,
2 as amended (Article 1396-1.01 et seq., Vernon's Texas Civil
3 Statutes), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331,
4 53.34, 53.35, 53.38, 53.40, and 53.41 of this code apply to and
5 govern such corporation and its procedures, bonds, and other
6 obligations.

7 SECTION 2. Section 53.40, Education Code, is amended to
8 read as follows:

9 Sec. 53.40. APPROVAL OF BONDS; REGISTRATION;
10 NEGOTIABILITY. (a) Bonds issued under this chapter and the record
11 relating to their issuance shall be submitted to the attorney
12 general, and if the attorney general [~~he~~] finds that they have been
13 issued in accordance with this chapter and constitute valid and
14 binding obligations of the authority and are secured as recited
15 therein, the attorney general [~~he~~] shall approve them, and they
16 shall be registered by the comptroller of public accounts, who
17 shall certify the registration thereon. Thereafter they are
18 incontestable. The bonds shall be negotiable and shall contain the
19 following provision: "The holder hereof shall never have the right
20 to demand payment thereof out of money raised or to be raised by
21 taxation." If the attorney general does not find that the bonds
22 have been issued in accordance with this chapter and constitute
23 valid and binding obligations of the authority and are secured as
24 recited therein, the attorney general may not approve the bonds,
25 and the bonds may not be registered by the comptroller.

26 (b) When bonds to be issued to benefit an institution of
27 higher education and the record relating to their issuance are

1 submitted to the attorney general, the authority shall deliver
2 notice of that action to the governor, the lieutenant governor, the
3 speaker of the house of representatives, and the Legislative Budget
4 Board. The notice must include the amount of the bonds to be issued
5 and a description of the facilities to be financed from the bond
6 proceeds.

7 SECTION 3. Subdivision (6), Section 53A.02, Education Code,
8 is amended to read as follows:

9 (6) "Educational facility" means a classroom
10 building, laboratory, science building, faculty or administrative
11 office building, or other facility used [~~exclusively~~] for the
12 conduct of the educational and administrative functions of an
13 institution of higher education.

14 SECTION 4. Subsection (c), Section 53A.14, Education Code,
15 is amended to read as follows:

16 (c) [~~No officer or employee of any such city is eligible for~~
17 ~~appointment as a director.~~] Directors are not entitled to
18 compensation for services but are entitled to reimbursement for
19 expenses incurred in performing such service.

20 SECTION 5. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2009.

S.B. No. 2240

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2240 passed the Senate on May 12, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 2240 passed the House on May 27, 2009, by the following vote: Yeas 144, Nays 4, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor