

1-1 By: Zaffirini S.B. No. 2240
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Finance; May 1, 2009,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 13, Nays 0; May 1, 2009, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 2240 By: Zaffirini

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the financing of educational and related facilities by
1-10 higher education facility authorities or nonprofit corporations
1-11 performing the functions of those authorities and to the governance
1-12 of certain higher education facility authorities.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (b), Section 53.35, Education Code,
1-15 is amended to read as follows:

1-16 (b) In addition to or in lieu of establishing an authority
1-17 under the provisions of this chapter, the governing body of a city
1-18 or cities may request or order created one or more nonprofit
1-19 corporations to act on its behalf and as its duly constituted
1-20 authority and instrumentality to exercise the powers granted to an
1-21 authority under the provisions of Sections 53.33 and 53.34. If a
1-22 nonprofit corporation is created for such purposes or agrees to
1-23 such request, the directors thereof shall thereafter be appointed
1-24 and be subject to removal by the governing body of the city or
1-25 cities. In addition to the powers granted under, and subject to the
1-26 limitations provided by, Sections 53.33 and 53.34, the corporation
1-27 shall have all powers granted under the Texas Non-Profit
1-28 Corporation Act for the purpose of aiding institutions of higher
1-29 education in providing educational facilities and housing
1-30 facilities and facilities incidental, subordinate, or related
1-31 thereto or appropriate in connection therewith. In addition to
1-32 Sections 53.33 and 53.34 and the Texas Non-Profit Corporation Act,
1-33 as amended (Article 1396-1.01 et seq., Vernon's Texas Civil
1-34 Statutes), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331,
1-35 53.34, 53.35, 53.38, 53.40, and 53.41 of this code apply to and
1-36 govern such corporation and its procedures, bonds, and other
1-37 obligations.

1-38 SECTION 2. Section 53.40, Education Code, is amended to
1-39 read as follows:

1-40 Sec. 53.40. APPROVAL OF BONDS; REGISTRATION;
1-41 NEGOTIABILITY. (a) Bonds issued under this chapter and the record
1-42 relating to their issuance shall be submitted to the attorney
1-43 general, and if the attorney general [~~he~~] finds that they have been
1-44 issued in accordance with this chapter and constitute valid and
1-45 binding obligations of the authority and are secured as recited
1-46 therein, the attorney general [~~he~~] shall approve them, and they
1-47 shall be registered by the comptroller of public accounts, who
1-48 shall certify the registration thereon. Thereafter they are
1-49 incontestable. The bonds shall be negotiable and shall contain the
1-50 following provision: "The holder hereof shall never have the right
1-51 to demand payment thereof out of money raised or to be raised by
1-52 taxation." If the attorney general does not find that the bonds
1-53 have been issued in accordance with this chapter and constitute
1-54 valid and binding obligations of the authority and are secured as
1-55 recited therein, the attorney general may not approve the bonds,
1-56 and the bonds may not be registered by the comptroller.

1-57 (b) When bonds to be issued to benefit an institution of
1-58 higher education and the record relating to their issuance are
1-59 submitted to the attorney general, the authority shall deliver
1-60 notice of that action to the governor, the lieutenant governor, the
1-61 speaker of the house of representatives, and the Legislative Budget
1-62 Board. The notice must include the amount of the bonds to be issued
1-63 and a description of the facilities to be financed from the bond

2-1 proceeds.

2-2 SECTION 3. Subdivision (6), Section 53A.02, Education Code,
2-3 is amended to read as follows:

2-4 (6) "Educational facility" means a classroom
2-5 building, laboratory, science building, faculty or administrative
2-6 office building, or other facility used [~~exclusively~~] for the
2-7 conduct of the educational and administrative functions of an
2-8 institution of higher education.

2-9 SECTION 4. Subsection (c), Section 53A.14, Education Code,
2-10 is amended to read as follows:

2-11 (c) [~~No officer or employee of any such city is eligible for~~
2-12 ~~appointment as a director.~~] Directors are not entitled to
2-13 compensation for services but are entitled to reimbursement for
2-14 expenses incurred in performing such service.

2-15 SECTION 5. This Act takes effect immediately if it receives
2-16 a vote of two-thirds of all the members elected to each house, as
2-17 provided by Section 39, Article III, Texas Constitution. If this
2-18 Act does not receive the vote necessary for immediate effect, this
2-19 Act takes effect September 1, 2009.

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