

1-1 By: Shapiro S.B. No. 31
1-2 (In the Senate - Filed June 2, 2011; June 3, 2011, read
1-3 first time and referred to Committee on Education; June 6, 2011,
1-4 reported favorably by the following vote: Yeas 8, Nays 0;
1-5 June 6, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the guarantee of open-enrollment charter school bonds
1-9 by the permanent school fund.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter D, Chapter 12, Education Code, is
1-12 amended by adding Section 12.135 to read as follows:

1-13 Sec. 12.135. DESIGNATION AS CHARTER DISTRICT FOR PURPOSES
1-14 OF BOND GUARANTEE. (a) On the application of the charter holder,
1-15 the commissioner may grant designation as a charter district to an
1-16 open-enrollment charter school that meets financial standards
1-17 adopted by the commissioner. The financial standards must require
1-18 an open-enrollment charter school to have an investment grade
1-19 credit rating as specified by Section 45.0541.

1-20 (b) A charter district may apply for bonds issued under
1-21 Chapter 53 for the open-enrollment charter school to be guaranteed
1-22 by the permanent school fund as provided by Chapter 45.

1-23 SECTION 2. Section 45.051, Education Code, is amended by
1-24 adding Subdivision (1-a) and amending Subdivision (2) to read as
1-25 follows:

1-26 (1-a) "Charter district" means an open-enrollment
1-27 charter school designated as a charter district under Section
1-28 12.135.

1-29 (2) "Paying agent" means the financial institution
1-30 that is designated by a school district or charter district as its
1-31 agent for the payment of the principal of and interest on guaranteed
1-32 bonds.

1-33 SECTION 3. Section 45.052, Education Code, is amended to
1-34 read as follows:

1-35 Sec. 45.052. GUARANTEE. (a) On approval by the
1-36 commissioner, bonds issued under Subchapter A by a school district
1-37 or Chapter 53 for a charter district, including refunding bonds,
1-38 are guaranteed by the corpus and income of the permanent school
1-39 fund.

1-40 (b) Notwithstanding any amendment of this subchapter or
1-41 other law, the guarantee under this subchapter of school district
1-42 or charter district bonds remains in effect until the date those
1-43 bonds mature or are defeased in accordance with state law.

1-44 SECTION 4. Subchapter C, Chapter 45, Education Code, is
1-45 amended by adding Section 45.0532 to read as follows:

1-46 Sec. 45.0532. LIMITATION ON GUARANTEE OF CHARTER DISTRICT
1-47 BONDS. (a) In addition to the general limitation under Section
1-48 45.053, the commissioner may not approve charter district bonds for
1-49 guarantee under this subchapter in a total amount that exceeds the
1-50 percentage of the total available capacity of the guaranteed bond
1-51 program that is equal to the percentage of the number of students
1-52 enrolled in open-enrollment charter schools in this state compared
1-53 to the total number of students enrolled in all public schools in
1-54 this state, as determined by the commissioner.

1-55 (b) For purposes of Subsection (a), the total available
1-56 capacity of the guaranteed bond program is the limit established by
1-57 the board under Sections 45.053(d) and 45.0531 minus the total
1-58 amount of outstanding guaranteed bonds. Each time the board
1-59 increases the limit under Section 45.053(d), the total amount of
1-60 charter district bonds that may be guaranteed increases accordingly
1-61 under Subsection (a).

1-62 (c) Notwithstanding Subsections (a) and (b), the
1-63 commissioner may not approve charter district bonds for guarantee
1-64 under this subchapter if the guarantee will result in lower bond

2-1 ratings for school district bonds for which a guarantee is
2-2 requested under this subchapter.

2-3 (d) The commissioner may request that the comptroller place
2-4 the portion of the permanent school fund committed to the guarantee
2-5 of charter district bonds in a segregated account if the
2-6 commissioner determines that a separate account is needed to avoid
2-7 any negative impact on the bond ratings of school district bonds for
2-8 which a guarantee is requested under this subchapter.

2-9 (e) A guarantee of charter district bonds must be made in
2-10 accordance with this chapter and any applicable federal law.

2-11 SECTION 5. Section 45.054, Education Code, is amended to
2-12 read as follows:

2-13 Sec. 45.054. ELIGIBILITY OF SCHOOL DISTRICT BONDS. To be
2-14 eligible for approval by the commissioner, school district bonds
2-15 must be issued under Subchapter A of this chapter or under
2-16 Subchapter A, Chapter 1207, Government Code, to make a deposit
2-17 under Subchapter B or C of that chapter, by an accredited school
2-18 district.

2-19 SECTION 6. Subchapter C, Chapter 45, Education Code, is
2-20 amended by adding Section 45.0541 to read as follows:

2-21 Sec. 45.0541. ELIGIBILITY OF CHARTER DISTRICT BONDS. To be
2-22 eligible for approval by the commissioner, charter district bonds
2-23 must:

2-24 (1) without the guarantee, be rated as investment
2-25 grade by a nationally recognized investment rating firm; and

2-26 (2) be issued under Chapter 53.

2-27 SECTION 7. Subsections (a) and (b), Section 45.055,
2-28 Education Code, are amended to read as follows:

2-29 (a) A school district or charter district seeking guarantee
2-30 of eligible bonds under this subchapter shall apply to the
2-31 commissioner using a form adopted by the commissioner for the
2-32 purpose. The commissioner may adopt a single form on which a school
2-33 district seeking guarantee or credit enhancement of eligible bonds
2-34 may apply simultaneously first for guarantee under this subchapter
2-35 and then, if that guarantee is rejected, for credit enhancement
2-36 under Subchapter I.

2-37 (b) An application under Subsection (a) must include:

2-38 (1) the name of the school district or charter
2-39 district and the principal amount of the bonds to be issued;

2-40 (2) the name and address of the district's paying agent
2-41 for those bonds; and

2-42 (3) the maturity schedule, estimated interest rate,
2-43 and date of the bonds.

2-44 SECTION 8. Section 45.056, Education Code, is amended to
2-45 read as follows:

2-46 Sec. 45.056. INVESTIGATION. (a) Following receipt of an
2-47 application for the guarantee of bonds, the commissioner shall
2-48 conduct an investigation of the applicant school district or
2-49 charter district in regard to:

2-50 (1) the status of the district's accreditation; and

2-51 (2) the total amount of outstanding guaranteed bonds.

2-52 (b) If following the investigation the commissioner is
2-53 satisfied that the school district's bonds should be guaranteed
2-54 under this subchapter or provided credit enhancement under
2-55 Subchapter I, as applicable, or the charter district's bonds should
2-56 be guaranteed under this subchapter, the commissioner shall endorse
2-57 the bonds.

2-58 SECTION 9. Subsection (b), Section 45.057, Education Code,
2-59 is amended to read as follows:

2-60 (b) The guarantee is not effective unless the attorney
2-61 general approves the bonds under Section 45.005 or 53.40, as
2-62 applicable.

2-63 SECTION 10. Subchapter C, Chapter 45, Education Code, is
2-64 amended by adding Section 45.0571 to read as follows:

2-65 Sec. 45.0571. CHARTER DISTRICT BOND GUARANTEE RESERVE FUND.

2-66 (a) The charter district bond guarantee reserve fund is a special
2-67 fund in the state treasury outside the general revenue fund. The
2-68 following amounts shall be deposited in the fund:

2-69 (1) money due from a charter district as provided by

3-1 Subsection (b); and
3-2 (2) interest earned on balances in the fund.
3-3 (b) A charter district that has a bond guaranteed as
3-4 provided by this subchapter must annually remit to the
3-5 commissioner, for deposit in the charter district bond guarantee
3-6 reserve fund, an amount equal to 10 percent of the savings to the
3-7 charter district that is a result of the lower interest rate on the
3-8 bond due to the guarantee by the permanent school fund. The amount
3-9 due under this section shall be amortized and paid over the duration
3-10 of the bond. Each payment is due on the anniversary of the date the
3-11 bond was issued. The commissioner shall adopt rules to determine
3-12 the total and annual amounts due under this section.
3-13 (c) The commissioner may direct the comptroller to annually
3-14 withhold the amount due to the charter district bond guarantee
3-15 reserve fund under Subsection (b) for that year from the state funds
3-16 otherwise payable to the charter district.
3-17 (d) Each year, the commissioner shall:
3-18 (1) review the condition of the bond guarantee program
3-19 and the amount that must be deposited in the charter district bond
3-20 guarantee reserve fund from charter districts; and
3-21 (2) determine if charter districts should be required
3-22 to submit a greater percentage of the savings resulting from the
3-23 guarantee.
3-24 (e) The commissioner shall make recommendations to the
3-25 legislature based on the review under Subsection (d).
3-26 SECTION 11. Section 45.058, Education Code, is amended to
3-27 read as follows:
3-28 Sec. 45.058. NOTICE OF DEFAULT. Immediately following a
3-29 determination that a school district or charter district will be or
3-30 is unable to pay maturing or matured principal or interest on a
3-31 guaranteed bond, but not later than the fifth day before maturity
3-32 date, the school district or charter district shall notify the
3-33 commissioner.
3-34 SECTION 12. The heading to Section 45.059, Education Code,
3-35 is amended to read as follows:
3-36 Sec. 45.059. PAYMENT OF SCHOOL DISTRICT BOND ON DEFAULT
3-37 [FROM PERMANENT SCHOOL FUND].
3-38 SECTION 13. Subsection (a), Section 45.059, Education Code,
3-39 is amended to read as follows:
3-40 (a) Immediately following receipt of notice under Section
3-41 45.058 that a school district will be or is unable to pay maturing
3-42 or matured principal or interest on a guaranteed bond, the
3-43 commissioner shall instruct the comptroller to transfer from the
3-44 appropriate account in the permanent school fund to the district's
3-45 paying agent the amount necessary to pay the maturing or matured
3-46 principal or interest.
3-47 SECTION 14. Subchapter C, Chapter 45, Education Code, is
3-48 amended by adding Section 45.0591 to read as follows:
3-49 Sec. 45.0591. PAYMENT OF CHARTER DISTRICT BOND ON DEFAULT.
3-50 (a) Immediately following receipt of notice under Section 45.058
3-51 that a charter district will be or is unable to pay maturing or
3-52 matured principal or interest on a guaranteed bond, the
3-53 commissioner shall instruct the comptroller to transfer from the
3-54 charter district bond guarantee reserve fund created under Section
3-55 45.0571 to the district's paying agent the amount necessary to pay
3-56 the maturing or matured principal or interest.
3-57 (b) If money in the charter district bond guarantee reserve
3-58 fund is insufficient to pay the amount due on a bond under
3-59 Subsection (a), the commissioner shall instruct the comptroller to
3-60 transfer from the appropriate account in the permanent school fund
3-61 to the district's paying agent the amount necessary to pay the
3-62 balance of the unpaid maturing or matured principal or interest.
3-63 (c) Immediately following receipt of the funds for payment
3-64 of the principal or interest, the paying agent shall pay the amount
3-65 due and forward the canceled bond or coupon to the comptroller. The
3-66 comptroller shall hold the canceled bond or coupon on behalf of the
3-67 fund or funds from which payment was made.
3-68 (d) Following full reimbursement to the charter district
3-69 bond guarantee reserve fund and the permanent school fund, if

4-1 applicable, with interest, the comptroller shall further cancel the
4-2 bond or coupon and forward it to the charter district for which
4-3 payment was made.

4-4 SECTION 15. Section 45.060, Education Code, is amended to
4-5 read as follows:

4-6 Sec. 45.060. BONDS NOT ACCELERATED ON DEFAULT. If a school
4-7 district or charter district fails to pay principal or interest on a
4-8 guaranteed bond when it matures, other amounts not yet mature are
4-9 not accelerated and do not become due by virtue of the school
4-10 district's or charter district's default.

4-11 SECTION 16. The heading to Section 45.061, Education Code,
4-12 is amended to read as follows:

4-13 Sec. 45.061. REIMBURSEMENT OF FUNDS [~~PERMANENT SCHOOL~~
4-14 ~~FUND~~].

4-15 SECTION 17. Section 45.061, Education Code, is amended by
4-16 amending Subsections (a) and (b) and adding Subsection (a-1) to
4-17 read as follows:

4-18 (a) If the commissioner orders payment from the permanent
4-19 school fund or the charter district bond guarantee reserve fund on
4-20 behalf of a school district or charter district, the commissioner
4-21 shall direct the comptroller to withhold the amount paid, plus
4-22 interest, from the first state money payable to the school district
4-23 or charter district. Except as provided by Subsection (a-1), the
4-24 [The] amount withheld shall be deposited to the credit of the
4-25 permanent school fund.

4-26 (a-1) After the permanent school fund has been reimbursed
4-27 for all money paid from the fund as the result of a default of a
4-28 charter district bond guaranteed under this subchapter, any
4-29 remaining amounts withheld under Subsection (a) shall be deposited
4-30 to the credit of the charter district bond guarantee reserve fund.

4-31 (b) In accordance with the rules of the board, the
4-32 commissioner may authorize reimbursement to the permanent school
4-33 fund or charter district bond guarantee reserve fund with interest
4-34 in a manner other than that provided by this section.

4-35 SECTION 18. Section 45.062, Education Code, is amended by
4-36 adding Subsection (a-1) to read as follows:

4-37 (a-1) If a total of two or more payments are made under this
4-38 subchapter on charter district bonds and the commissioner
4-39 determines that the charter district is acting in bad faith under
4-40 the guarantee program under this subchapter, the commissioner may
4-41 request the attorney general to institute appropriate legal action
4-42 to compel the charter district and its officers, agents, and
4-43 employees to comply with the duties required of them by law in
4-44 regard to the bonds.

4-45 SECTION 19. Subdivision (10), Section 53.02, Education
4-46 Code, is amended to read as follows:

4-47 (10) "Authorized charter school" means an
4-48 open-enrollment charter school that holds a charter granted under
4-49 Subchapter D, Chapter 12, and includes an open-enrollment charter
4-50 school designated as a charter district as provided by Section
4-51 12.135.

4-52 SECTION 20. Section 53.351, Education Code, is amended by
4-53 amending Subsection (f) and adding Subsection (f-1) to read as
4-54 follows:

4-55 (f) Except as provided by Subsection (f-1), a [A] revenue
4-56 bond issued under this section is not a debt of the state or any
4-57 state agency, political corporation, or political subdivision of
4-58 the state and is not a pledge of the faith and credit of any of these
4-59 entities. A revenue bond is payable solely from the revenue of the
4-60 authorized open-enrollment charter school on whose behalf the bond
4-61 is issued. A revenue bond issued under this section must contain on
4-62 its face a statement to the effect that:

4-63 (1) neither the state nor a state agency, political
4-64 corporation, or political subdivision of the state is obligated to
4-65 pay the principal of or interest on the bond; and

4-66 (2) neither the faith and credit nor the taxing power
4-67 of the state or any state agency, political corporation, or
4-68 political subdivision of the state is pledged to the payment of the
4-69 principal of or interest on the bond.

5-1 (f-1) Subsection (f) does not apply to a revenue bond issued
5-2 under this section for a charter district if the bond is approved
5-3 for guarantee by the permanent school fund under Subchapter C,
5-4 Chapter 45.

5-5 SECTION 21. This Act applies only to a bond issued or
5-6 refunded on or after the effective date of this Act by an
5-7 open-enrollment charter school designated as a charter district
5-8 under Section 12.135, Education Code, as added by this Act. A bond
5-9 issued or refunded by an open-enrollment charter school before the
5-10 effective date of this Act is governed by the law in effect
5-11 immediately before that date, and that law is continued in effect
5-12 for that purpose.

5-13 SECTION 22. This Act takes effect on the 91st day after the
5-14 last day of the legislative session.

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