

By: Lucio III, Solomons

H.B. No. 1263

A BILL TO BE ENTITLED

AN ACT

relating to the powers, duties, and financing of certain facilities
finance corporations.

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

SECTION 1. Section 2(a), Cultural Education Facilities
Finance Corporation Act (Article 1528m, Vernon's Texas Civil
Statutes), is amended to read as follows:

(a) The legislature finds that:

(1) the health, education, and general welfare of the
people of this state require the development of new and expanded
cultural and community facilities for the purpose of:

(A) exhibition and promotion of and education
about the performing, dramatic, visual, and literary arts; the
culture and history of races, ethnic groups, and national heritage
groups; and history, natural history, and science;

(B) promotion of and education about health and
physical fitness, public health and safety, conservation and
preservation of the environment or natural resources, child care,
adoption, children's services, substance abuse counseling, family
counseling, and care of persons who are elderly or disabled;

(C) administering the provision and granting of
charitable services and grants in accomplishment of the purposes
described by Paragraph (B) of this subdivision;

(D) promotion of and education about activities

devoted to general cultural improvement, including scouting programs and programs by which agencies seek to provide facilities for retreats in urban or rural settings;

(E) support of agencies devoted to the eradication, elimination, or amelioration of one or more diseases or afflictions affecting health or improving the condition of individuals or groups within a community; and

(F) provision of public health and safety and charitable services to communities in times of catastrophe or disaster;

(2) the existence, development, and expansion of cultural facilities are essential to the continuing education, health, general welfare, and comfort of the citizens of this state;

(3) the means and measures authorized and the assistance provided by this Act are in the public interest and serve a public purpose in promoting the health, education, and general welfare of the people of this state by securing and maintaining cultural facilities and the resulting advancement of culture and civilization;

(4) qualified cultural organizations in this state have invested substantial funds in useful and beneficial cultural facilities and have experienced difficulty in undertaking additional projects because of the partial inadequacy of their own funds or of funds potentially available from local subscription sources and because of limitations of local financial institutions in providing necessary financing for these facilities;

(5) qualified nonprofit corporations in this state

1 have invested substantial funds in useful and beneficial cultural
2 facilities and have experienced difficulty in undertaking
3 additional projects because of the inadequacy of their own funds or
4 of funds potentially available from local subscription sources and
5 because of limitations of local financial institutions in providing
6 necessary financing for these facilities; and

7 (6) [~~(5)~~] the enactment of this Act will:

8 (A) secure for present and future generations the
9 benefits and nurturance derived from these cultural facilities; and

10 (B) enhance the public health and welfare of
11 communities receiving the benefit of the cultural facilities.

12 SECTION 2. Section 3(5), Cultural Education Facilities
13 Finance Corporation Act (Article 1528m, Vernon's Texas Civil
14 Statutes), is amended to read as follows:

15 (5) "Cultural facility" means any capital expenditure
16 by a user. The term includes:

17 (A) real property or an interest in real
18 property, including buildings and improvements, or equipment,
19 furnishings, or other personal property that:

20 (i) is found by the board to be necessary or
21 convenient to finance, refinance, acquire, construct, enlarge,
22 remodel, renovate, improve, furnish, or equip for cultural
23 education or community benefit;

24 (ii) is made available for use by the
25 general public, the user, or community groups; and

26 (iii) is used for a purpose described by
27 Section 2(a)(1) of this Act; [~~and~~]

1 (B) a facility in which any of the following
2 entities engage in any activity in which the entity is permitted to
3 engage:

4 (i) a nonprofit corporation exempt from the
5 state franchise tax under Section 171.063, Tax Code;

6 (ii) an organization described in Section
7 11.18, Tax Code; or

8 (iii) an organization described in Section
9 501(c)(3), Internal Revenue Code of 1986; and

10 (C) facilities incidental, subordinate, or
11 related to or appropriate in connection with property described by
12 Paragraph (A) or (B) of this subdivision, [~~located within the~~
13 ~~state,~~] regardless of the date of construction or acquisition.

14 SECTION 3. Section 4, Cultural Education Facilities Finance
15 Corporation Act (Article 1528m, Vernon's Texas Civil Statutes), is
16 amended by amending Subsections (b) and (c) and adding Subsection
17 (e) to read as follows:

18 (b) The corporation shall be created and organized in the
19 same manner as a health facilities development corporation under
20 Chapter 221, Health and Safety Code, and has the same powers,
21 authority, and rights:

22 (1) with respect to cultural facilities and health
23 facilities that a health facilities development corporation has
24 with respect to health facilities under Chapter 221, Health and
25 Safety Code; and

26 (2) with respect to educational facilities, housing
27 facilities, and other facilities incidental, subordinate, or

1 related to those facilities that a nonprofit corporation created
2 under Section 53.35(b), Education Code, or an authority created
3 under Section 53.11, Education Code, has under Chapter 53,
4 Education Code.

5 (c) The powers of a corporation under Subsection (b) include
6 the power to acquire, purchase, lease, mortgage, and convey
7 property with respect to a facility; borrow money by issuing bonds,
8 notes, and other obligations; lend money for its corporate
9 purposes; invest and reinvest its funds; and secure its bonds,
10 notes, and obligations by mortgaging, pledging, assigning, or
11 otherwise encumbering its property or assets. Except as otherwise
12 provided by this Act, any bonds, notes, or other obligations
13 authorized under this subsection must be issued in accordance with
14 Chapter 1201, Government Code.

15 (e) Regardless of any other provision in Chapter 221, Health
16 and Safety Code, or Chapter 53, Education Code, the corporation may
17 exercise its powers on behalf of a user outside of this state if the
18 user also conducts lawful activities in this state.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2011.