

1-1 By: Shapiro S.B. No. 597
1-2 (In the Senate - Filed February 11, 2011;
1-3 February 17, 2011, read first time and referred to Committee on
1-4 Education; March 28, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 597 By: Shapiro

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the guarantee of open-enrollment charter school bonds
1-11 by the permanent school fund.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 12, Education Code, is
1-14 amended by adding Section 12.135 to read as follows:

1-15 Sec. 12.135. DESIGNATION AS CHARTER DISTRICT FOR PURPOSES
1-16 OF BOND GUARANTEE. (a) On the application of the charter holder,
1-17 the commissioner may grant designation as a charter district to an
1-18 open-enrollment charter school that meets financial standards
1-19 adopted by the commissioner. The financial standards must require
1-20 an open-enrollment charter school to have an investment grade
1-21 credit rating as specified by Section 45.0541.

1-22 (b) A charter district may apply for bonds issued under
1-23 Chapter 53 for the open-enrollment charter school to be guaranteed
1-24 by the permanent school fund as provided by Chapter 45.

1-25 SECTION 2. Section 45.051, Education Code, is amended by
1-26 adding Subdivision (1-a) and amending Subdivision (2) to read as
1-27 follows:

1-28 (1-a) "Charter district" means an open-enrollment
1-29 charter school designated as a charter district under Section
1-30 12.135.

1-31 (2) "Paying agent" means the financial institution
1-32 that is designated by a school district or charter district as its
1-33 agent for the payment of the principal of and interest on guaranteed
1-34 bonds.

1-35 SECTION 3. Section 45.052, Education Code, is amended to
1-36 read as follows:

1-37 Sec. 45.052. GUARANTEE. (a) On approval by the
1-38 commissioner, bonds issued under Subchapter A by a school district
1-39 or Chapter 53 for a charter district, including refunding bonds,
1-40 are guaranteed by the corpus and income of the permanent school
1-41 fund.

1-42 (b) Notwithstanding any amendment of this subchapter or
1-43 other law, the guarantee under this subchapter of school district
1-44 or charter district bonds remains in effect until the date those
1-45 bonds mature or are defeased in accordance with state law.

1-46 SECTION 4. Subchapter C, Chapter 45, Education Code, is
1-47 amended by adding Section 45.0532 to read as follows:

1-48 Sec. 45.0532. LIMITATION ON GUARANTEE OF CHARTER DISTRICT
1-49 BONDS. (a) In addition to the general limitation under Section
1-50 45.053, the commissioner may not approve charter district bonds for
1-51 guarantee under this subchapter in a total amount that exceeds the
1-52 percentage of the total available capacity of the guaranteed bond
1-53 program that is equal to the percentage of the number of students
1-54 enrolled in open-enrollment charter schools in this state compared
1-55 to the total number of students enrolled in all public schools in
1-56 this state, as determined by the commissioner.

1-57 (b) For purposes of Subsection (a), the total available
1-58 capacity of the guaranteed bond program is the limit established by
1-59 the board under Sections 45.053(d) and 45.0531 minus the total
1-60 amount of outstanding guaranteed bonds. Each time the board
1-61 increases the limit under Section 45.053(d), the total amount of
1-62 charter district bonds that may be guaranteed increases accordingly
1-63 under Subsection (a).

2-1 (c) Notwithstanding Subsections (a) and (b), the
 2-2 commissioner may not approve charter district bonds for guarantee
 2-3 under this subchapter if the guarantee will result in lower bond
 2-4 ratings for school district bonds for which a guarantee is
 2-5 requested under this subchapter.

2-6 (d) The commissioner may request that the comptroller place
 2-7 the portion of the permanent school fund committed to the guarantee
 2-8 of charter district bonds in a segregated account if the
 2-9 commissioner determines that a separate account is needed to avoid
 2-10 any negative impact on the bond ratings of school district bonds for
 2-11 which a guarantee is requested under this subchapter.

2-12 (e) A guarantee of charter district bonds must be made in
 2-13 accordance with this chapter and any applicable federal law.

2-14 SECTION 5. Section 45.054, Education Code, is amended to
 2-15 read as follows:

2-16 Sec. 45.054. ELIGIBILITY OF SCHOOL DISTRICT BONDS. To be
 2-17 eligible for approval by the commissioner, school district bonds
 2-18 must be issued under Subchapter A of this chapter or under
 2-19 Subchapter A, Chapter 1207, Government Code, to make a deposit
 2-20 under Subchapter B or C of that chapter, by an accredited school
 2-21 district.

2-22 SECTION 6. Subchapter C, Chapter 45, Education Code, is
 2-23 amended by adding Section 45.0541 to read as follows:

2-24 Sec. 45.0541. ELIGIBILITY OF CHARTER DISTRICT BONDS. To be
 2-25 eligible for approval by the commissioner, charter district bonds
 2-26 must:

2-27 (1) without the guarantee, be rated as investment
 2-28 grade by a nationally recognized investment rating firm; and

2-29 (2) be issued under Chapter 53.

2-30 SECTION 7. Subsections (a) and (b), Section 45.055,
 2-31 Education Code, are amended to read as follows:

2-32 (a) A school district or charter district seeking guarantee
 2-33 of eligible bonds under this subchapter shall apply to the
 2-34 commissioner using a form adopted by the commissioner for the
 2-35 purpose. The commissioner may adopt a single form on which a school
 2-36 district seeking guarantee or credit enhancement of eligible bonds
 2-37 may apply simultaneously first for guarantee under this subchapter
 2-38 and then, if that guarantee is rejected, for credit enhancement
 2-39 under Subchapter I.

2-40 (b) An application under Subsection (a) must include:

2-41 (1) the name of the school district or charter
 2-42 district and the principal amount of the bonds to be issued;

2-43 (2) the name and address of the district's paying agent
 2-44 for those bonds; and

2-45 (3) the maturity schedule, estimated interest rate,
 2-46 and date of the bonds.

2-47 SECTION 8. Section 45.056, Education Code, is amended to
 2-48 read as follows:

2-49 Sec. 45.056. INVESTIGATION. (a) Following receipt of an
 2-50 application for the guarantee of bonds, the commissioner shall
 2-51 conduct an investigation of the applicant school district or
 2-52 charter district in regard to:

2-53 (1) the status of the district's accreditation; and

2-54 (2) the total amount of outstanding guaranteed bonds.

2-55 (b) If following the investigation the commissioner is
 2-56 satisfied that the school district's bonds should be guaranteed
 2-57 under this subchapter or provided credit enhancement under
 2-58 Subchapter I, as applicable, or the charter district's bonds should
 2-59 be guaranteed under this subchapter, the commissioner shall endorse
 2-60 the bonds.

2-61 SECTION 9. Subsection (b), Section 45.057, Education Code,
 2-62 is amended to read as follows:

2-63 (b) The guarantee is not effective unless the attorney
 2-64 general approves the bonds under Section 45.005 or 53.40, as
 2-65 applicable.

2-66 SECTION 10. Subchapter C, Chapter 45, Education Code, is
 2-67 amended by adding Section 45.0571 to read as follows:

2-68 Sec. 45.0571. CHARTER DISTRICT BOND GUARANTEE RESERVE FUND.

2-69 (a) The charter district bond guarantee reserve fund is a special

3-1 fund in the state treasury outside the general revenue fund. The
 3-2 following amounts shall be deposited in the fund:

3-3 (1) money due from a charter district as provided by
 3-4 Subsection (b); and

3-5 (2) interest earned on balances in the fund.

3-6 (b) A charter district that has a bond guaranteed as
 3-7 provided by this subchapter must annually remit to the
 3-8 commissioner, for deposit in the charter district bond guarantee
 3-9 reserve fund, an amount equal to 10 percent of the savings to the
 3-10 charter district that is a result of the lower interest rate on the
 3-11 bond due to the guarantee by the permanent school fund. The amount
 3-12 due under this section shall be amortized and paid over the duration
 3-13 of the bond. Each payment is due on the anniversary of the date the
 3-14 bond was issued. The commissioner shall adopt rules to determine
 3-15 the total and annual amounts due under this section.

3-16 (c) The commissioner may direct the comptroller to annually
 3-17 withhold the amount due to the charter district bond guarantee
 3-18 reserve fund under Subsection (b) for that year from the state funds
 3-19 otherwise payable to the charter district.

3-20 (d) Each year, the commissioner shall:

3-21 (1) review the condition of the bond guarantee program
 3-22 and the amount that must be deposited in the charter district bond
 3-23 guarantee reserve fund from charter districts; and

3-24 (2) determine if charter districts should be required
 3-25 to submit a greater percentage of the savings resulting from the
 3-26 guarantee.

3-27 (e) The commissioner shall make recommendations to the
 3-28 legislature based on the review under Subsection (d).

3-29 SECTION 11. Section 45.058, Education Code, is amended to
 3-30 read as follows:

3-31 Sec. 45.058. NOTICE OF DEFAULT. Immediately following a
 3-32 determination that a school district or charter district will be or
 3-33 is unable to pay maturing or matured principal or interest on a
 3-34 guaranteed bond, but not later than the fifth day before maturity
 3-35 date, the school district or charter district shall notify the
 3-36 commissioner.

3-37 SECTION 12. The heading to Section 45.059, Education Code,
 3-38 is amended to read as follows:

3-39 Sec. 45.059. PAYMENT OF SCHOOL DISTRICT BOND ON DEFAULT
 3-40 [~~FROM PERMANENT SCHOOL FUND~~].

3-41 SECTION 13. Subsection (a), Section 45.059, Education Code,
 3-42 is amended to read as follows:

3-43 (a) Immediately following receipt of notice under Section
 3-44 45.058 that a school district will be or is unable to pay maturing
 3-45 or matured principal or interest on a guaranteed bond, the
 3-46 commissioner shall instruct the comptroller to transfer from the
 3-47 appropriate account in the permanent school fund to the district's
 3-48 paying agent the amount necessary to pay the maturing or matured
 3-49 principal or interest.

3-50 SECTION 14. Subchapter C, Chapter 45, Education Code, is
 3-51 amended by adding Section 45.0591 to read as follows:

3-52 Sec. 45.0591. PAYMENT OF CHARTER DISTRICT BOND ON DEFAULT.

3-53 (a) Immediately following receipt of notice under Section 45.058
 3-54 that a charter district will be or is unable to pay maturing or
 3-55 matured principal or interest on a guaranteed bond, the
 3-56 commissioner shall instruct the comptroller to transfer from the
 3-57 charter district bond guarantee reserve fund created under Section
 3-58 45.0571 to the district's paying agent the amount necessary to pay
 3-59 the maturing or matured principal or interest.

3-60 (b) If money in the charter district bond guarantee reserve
 3-61 fund is insufficient to pay the amount due on a bond under
 3-62 Subsection (a), the commissioner shall instruct the comptroller to
 3-63 transfer from the appropriate account in the permanent school fund
 3-64 to the district's paying agent the amount necessary to pay the
 3-65 balance of the unpaid maturing or matured principal or interest.

3-66 (c) Immediately following receipt of the funds for payment
 3-67 of the principal or interest, the paying agent shall pay the amount
 3-68 due and forward the canceled bond or coupon to the comptroller. The
 3-69 comptroller shall hold the canceled bond or coupon on behalf of the

4-1 fund or funds from which payment was made.

4-2 (d) Following full reimbursement to the charter district
 4-3 bond guarantee reserve fund and the permanent school fund, if
 4-4 applicable, with interest, the comptroller shall further cancel the
 4-5 bond or coupon and forward it to the charter district for which
 4-6 payment was made.

4-7 SECTION 15. Section 45.060, Education Code, is amended to
 4-8 read as follows:

4-9 Sec. 45.060. BONDS NOT ACCELERATED ON DEFAULT. If a school
 4-10 district or charter district fails to pay principal or interest on a
 4-11 guaranteed bond when it matures, other amounts not yet mature are
 4-12 not accelerated and do not become due by virtue of the school
 4-13 district's or charter district's default.

4-14 SECTION 16. The heading to Section 45.061, Education Code,
 4-15 is amended to read as follows:

4-16 Sec. 45.061. REIMBURSEMENT OF FUNDS [~~PERMANENT SCHOOL~~
 4-17 ~~FUND~~].

4-18 SECTION 17. Section 45.061, Education Code, is amended by
 4-19 amending Subsections (a) and (b) and adding Subsection (a-1) to
 4-20 read as follows:

4-21 (a) If the commissioner orders payment from the permanent
 4-22 school fund or the charter district bond guarantee reserve fund on
 4-23 behalf of a school district or charter district, the commissioner
 4-24 shall direct the comptroller to withhold the amount paid, plus
 4-25 interest, from the first state money payable to the school district
 4-26 or charter district. Except as provided by Subsection (a-1), the
 4-27 [The] amount withheld shall be deposited to the credit of the
 4-28 permanent school fund.

4-29 (a-1) After the permanent school fund has been reimbursed
 4-30 for all money paid from the fund as the result of a default of a
 4-31 charter district bond guaranteed under this subchapter, any
 4-32 remaining amounts withheld under Subsection (a) shall be deposited
 4-33 to the credit of the charter district bond guarantee reserve fund.

4-34 (b) In accordance with the rules of the board, the
 4-35 commissioner may authorize reimbursement to the permanent school
 4-36 fund or charter district bond guarantee reserve fund with interest
 4-37 in a manner other than that provided by this section.

4-38 SECTION 18. Section 45.062, Education Code, is amended by
 4-39 adding Subsection (a-1) to read as follows:

4-40 (a-1) If a total of two or more payments are made under this
 4-41 subchapter on charter district bonds and the commissioner
 4-42 determines that the charter district is acting in bad faith under
 4-43 the guarantee program under this subchapter, the commissioner may
 4-44 request the attorney general to institute appropriate legal action
 4-45 to compel the charter district and its officers, agents, and
 4-46 employees to comply with the duties required of them by law in
 4-47 regard to the bonds.

4-48 SECTION 19. Subdivision (10), Section 53.02, Education
 4-49 Code, is amended to read as follows:

4-50 (10) "Authorized charter school" means an
 4-51 open-enrollment charter school that holds a charter granted under
 4-52 Subchapter D, Chapter 12, and includes an open-enrollment charter
 4-53 school designated as a charter district as provided by Section
 4-54 12.135.

4-55 SECTION 20. Section 53.351, Education Code, is amended by
 4-56 amending Subsection (f) and adding Subsection (f-1) to read as
 4-57 follows:

4-58 (f) Except as provided by Subsection (f-1), a [A] revenue
 4-59 bond issued under this section is not a debt of the state or any
 4-60 state agency, political corporation, or political subdivision of
 4-61 the state and is not a pledge of the faith and credit of any of these
 4-62 entities. A revenue bond is payable solely from the revenue of the
 4-63 authorized open-enrollment charter school on whose behalf the bond
 4-64 is issued. A revenue bond issued under this section must contain on
 4-65 its face a statement to the effect that:

4-66 (1) neither the state nor a state agency, political
 4-67 corporation, or political subdivision of the state is obligated to
 4-68 pay the principal of or interest on the bond; and

4-69 (2) neither the faith and credit nor the taxing power

5-1 of the state or any state agency, political corporation, or
5-2 political subdivision of the state is pledged to the payment of the
5-3 principal of or interest on the bond.

5-4 (f-1) Subsection (f) does not apply to a revenue bond issued
5-5 under this section for a charter district if the bond is approved
5-6 for guarantee by the permanent school fund under Subchapter C,
5-7 Chapter 45.

5-8 SECTION 21. This Act applies only to a bond issued or
5-9 refunded on or after the effective date of this Act by an
5-10 open-enrollment charter school designated as a charter district
5-11 under Section 12.135, Education Code, as added by this Act. A bond
5-12 issued or refunded by an open-enrollment charter school before the
5-13 effective date of this Act is governed by the law in effect
5-14 immediately before that date, and that law is continued in effect
5-15 for that purpose.

5-16 SECTION 22. This Act takes effect September 1, 2011.

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