

BILL ANALYSIS

C.S.H.B. 272
By: Koop
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note a need for additional financing options for public school districts beyond traditional bond financing. C.S.H.B. 272 seeks to satisfy that need by creating a state financing program administered by the Texas Public Finance Authority to assist school districts with certain expenses.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Public Finance Authority in SECTION 1 of this bill and to the authority's board of directors in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 272 amends the Government Code to authorize the Texas Public Finance Authority to issue and sell obligations to finance the following: loans to eligible public school districts for eligible purposes; the purchase by the authority of vehicles, equipment, or appliances for sale, lease, or lease purchase to eligible districts; a lease or other agreement that concerns equipment that an eligible district has purchased or leased or intends to purchase or lease; or costs associated with maintenance, repair, rehabilitation, or renovation of eligible district facilities. The bill authorizes the authority to use proceeds of such obligations to pay related administrative costs, including costs of issuing obligations, and, in connection with a purchase or project financed with the proceeds of the obligations, to enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with eligible districts; to purchase obligations issued by eligible districts; and to enter into credit agreements and exercise other powers granted to issuers under statutory provisions relating to obligations for certain public improvements. The bill authorizes the authority to secure payment of obligations issued under these provisions to assist a district with the pledge of money in the school district equipment and improvement fund.

C.S.H.B. 272 establishes the school district equipment and improvement fund outside the treasury as a trust fund administered by the comptroller of public accounts on behalf of the authority as directed or agreed to by the authority's board of directors and consisting of proceeds of obligations issued by the authority to assist districts and obligations and agreements issued or executed by districts and purchased or funded by the authority with proceeds of authority obligations. The bill authorizes money in the fund to be spent without appropriation, restricts its use to funding the activities specified by the bill or to securing repayment of authority obligations, and requires interest and income from the assets of the fund to be credited to and

deposited in the fund. The bill authorizes the board of directors of the authority to establish funds and accounts determined to be necessary or appropriate in connection with the activities of the authority relating to obligations issued to assist public school districts. The bill caps the aggregate amount of obligations issued by the authority for that purpose outstanding at one time at \$100 million and prohibits the authority from issuing an applicable obligation on or after September 1, 2021. The bill exempts from that prohibition refunding bonds issued by the authority in accordance with applicable law or other obligations issued by the authority to refinance obligations incurred under the bill's amendment of the Government Code before September 1, 2021.

C.S.H.B. 272 requires the authority's board of directors to adopt rules necessary to implement the bill's provisions relating to obligations issued by the authority to assist school districts, including rules prescribing eligibility requirements for districts seeking assistance from the authority, rules identifying eligible purposes for loans to eligible districts, and rules identifying eligible district facilities for purposes of authority financing for maintenance, repair, rehabilitation, or renovation. The bill requires the board of directors to consult with the commissioner of education before adopting or modifying a rule under the bill's provisions and authorizes the adopted rules to establish a process under which a district must obtain approval by the commissioner in order to be eligible for assistance from the authority.

C.S.H.B. 272 amends the Education Code to authorize a public school district to borrow money from the authority and, as necessary in connection with obtaining loans or other financial assistance from the authority, to issue bonds and notes, provided that the term of an obligation issued for this purpose may not exceed 15 years, and to enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with the authority. The bill authorizes a district to make payments on an obligation or agreement so issued or executed using any available funds, including maintenance and operations tax revenue, and to secure the payment of such an obligation or agreement through creating a lien against equipment obtained using the proceeds of the obligation, through imposing a property tax otherwise authorized by law, or through obtaining credit enhancement under the intercept credit enhancement program, for which the bill authorizes a district to apply.

C.S.H.B. 272 requires a district to notify the commissioner of education immediately following a determination that the district will be or is unable to pay maturing or matured principal or interest on an obligation issued by the authority under the bill's provisions for the district's benefit, but not later than the fifth day before maturity date. The bill requires the commissioner, immediately following receipt of the notice from the district, to instruct the comptroller to transfer to the authority from the next payment of state money payable to the district from appropriations to the foundation school program the amount necessary to pay the maturing or matured principal or interest. The bill requires the authority to forward the canceled obligation to the comptroller immediately following receipt of the funds for payment of the principal or interest and requires the comptroller to hold the canceled obligation on behalf of the authority. The bill requires the comptroller to cancel the obligation and forward it to the district following full reimbursement to the authority with interest. The bill establishes that other obligations not yet mature are not accelerated and are not due by virtue of the district's default if the district fails to pay principal or interest on an obligation at maturity. The bill authorizes the commissioner, if a total of two or more payments are made using state money otherwise payable to a district from appropriations to the foundation school program and the commissioner determines that the district is acting in bad faith, to request the attorney general to institute appropriate legal action to compel the district and the district's officers, agents, and employees to comply with the duties required by law in regard to the appropriate obligations. Jurisdiction of such legal proceedings is in district court in Travis County. The bill authorizes the authority to adopt rules necessary for the administration of obligations issued on behalf of school districts. The bill authorizes the authority and the Texas Education Agency to enter into a memorandum of understanding governing each entity's duties under the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, the 91st day after the last day of the legislative session.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 272 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter E, Chapter 45, Education Code, is amended by adding Sections 45.116 and 45.117 to read as follows:

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Sec. 45.116. ASSISTANCE FROM TEXAS PUBLIC FINANCE AUTHORITY. (a) A school district may:

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(1) borrow money from the Texas Public Finance Authority made available in accordance with Section 1232.1031, Government Code; and

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(2) as necessary in connection with obtaining loans or other financial assistance from the Texas Public Finance Authority in accordance with Section 1232.1031, Government Code;

(2) as necessary in connection with obtaining loans or other financial assistance from the Texas Public Finance Authority in accordance with Section 1232.1031, Government Code;

(A) issue bonds and notes, provided that the term of an obligation issued for this purpose may not exceed 15 years; and

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(B) enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with the Texas Public Finance Authority.

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(b) A school district may:

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(1) make payments on an obligation or agreement issued or executed under Subsection (a) using any available funds, including maintenance and operations tax revenue; and

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(2) secure the payment of an obligation or agreement issued or executed under Subsection (a) through:

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(A) creating a lien against equipment obtained using the proceeds of the obligation;

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(B) imposing an ad valorem tax otherwise authorized by law; or

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(C) obtaining credit enhancement under Subchapter I.

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Sec. 45.117. PAYMENT PROTECTIONS FOR TEXAS PUBLIC FINANCE

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AUTHORITY. (a) In this section, "obligation" means an obligation issued by the Texas Public Finance Authority under Section 1232.1031, Government Code, for the benefit of a school district.

(b) Immediately following a determination that a school district will be or is unable to pay maturing or matured principal or interest on an obligation, but not later than the fifth day before maturity date, the school district shall notify the commissioner.

(c) Immediately following receipt of notice from a school district under Subsection (b), the commissioner shall instruct the comptroller to transfer to the Texas Public Finance Authority from the next payment of state money payable to the district from appropriations to the Foundation School Program the amount necessary to pay the maturing or matured principal or interest.

(d) Immediately following receipt of the funds for payment of the principal or interest, the Texas Public Finance Authority shall forward the canceled obligation to the comptroller. The comptroller shall hold the canceled obligation on behalf of the Texas Public Finance Authority.

(e) Following full reimbursement to the Texas Public Finance Authority with interest, the comptroller shall cancel the obligation and forward it to the school district.

(f) If a school district fails to pay principal or interest on an obligation at maturity, other obligations not yet mature are not accelerated and are not due by virtue of the school district's default.

(g) If a total of two or more payments are made using state money otherwise payable to a school district from appropriations to the Foundation School Program and the commissioner determines that the district is acting in bad faith, the commissioner may request the attorney general to institute appropriate legal action to compel the school district and the district's officers, agents, and employees to comply with the duties required by law in regard to the appropriate obligations. Jurisdiction of proceedings under this subsection is in district court in Travis County.

(h) The Texas Public Finance Authority may adopt rules necessary for the administration of obligations issued on behalf of school districts.

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(b) Immediately following a determination that a school district will be or is unable to pay maturing or matured principal or interest on an obligation, but not later than the fifth day before maturity date, the school district shall notify the commissioner.

(c) Immediately following receipt of notice from a school district under Subsection (b), the commissioner shall instruct the comptroller to transfer to the Texas Public Finance Authority from the next payment of state money payable to the district from appropriations to the Foundation School Program the amount necessary to pay the maturing or matured principal or interest.

(d) Immediately following receipt of the funds for payment of the principal or interest, the Texas Public Finance Authority shall forward the canceled obligation to the comptroller. The comptroller shall hold the canceled obligation on behalf of the Texas Public Finance Authority.

(e) Following full reimbursement to the Texas Public Finance Authority with interest, the comptroller shall cancel the obligation and forward it to the school district.

(f) If a school district fails to pay principal or interest on an obligation at maturity, other obligations not yet mature are not accelerated and are not due by virtue of the school district's default.

(g) If a total of two or more payments are made using state money otherwise payable to a school district from appropriations to the Foundation School Program and the commissioner determines that the district is acting in bad faith, the commissioner may request the attorney general to institute appropriate legal action to compel the school district and the district's officers, agents, and employees to comply with the duties required by law in regard to the appropriate obligations. Jurisdiction of proceedings under this subsection is in district court in Travis County.

(h) The Texas Public Finance Authority may adopt rules necessary for the administration of obligations issued on behalf of school districts.

(i) The Texas Public Finance Authority and the agency may enter into a memorandum of understanding governing the duties of the authority and agency under Section 45.116 and this section and Section 1232.1031, Government Code.

SECTION 2. Section 45.252, Education Code, is amended.

SECTION 2. Same as introduced version.

SECTION 3. Subchapter C, Chapter 1232, Government Code, is amended.

SECTION 3. Same as introduced version.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

SECTION 4. Same as introduced version.