

BILL ANALYSIS

C.S.H.B. 3438
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. 3438 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 board of directors of the Texas Public Finance Authority in SECTION 6 of this bill.

ANALYSIS

C.S.H.B. 3438 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; 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. 3438 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. 3438 requires the authority's board of directors to adopt rules necessary to implement the bill's provisions relating to obligations issued by the authority, including rules prescribing eligibility requirements for public school 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. 3438 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. 3438 includes bonds issued by the authority to assist school districts among the bonds that, on approval by the commissioner, are guaranteed by the corpus and income of the permanent school fund and subjects the authority, in seeking that guarantee, to each statutory provision relating to guaranteed bonds that applies to a district seeking guarantee of district bonds, except as otherwise provided by State Board of Education (SBOE) rules. The bill specifies that, for the purposes of statutory provisions relating to guaranteed bonds, a reference to bonds issued by the authority includes short-term obligations and any other obligations the authority may issue under the bill's amendment of the Government Code. The bill includes among the rules the SBOE may adopt for the administration of the bond guarantee program rules modifying statutory requirements as necessary to facilitate the guarantee of bonds issued by the authority. The bill requires the rules to provide for the application of statutory provisions relating to a district's default on payment of a guaranteed bond to a default in the payment of bonds issued by the authority and guaranteed by the permanent school fund in a manner that provides for the withholding of state aid that would otherwise be paid to the district on whose behalf the authority issued its bonds.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3438 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

SECTION 1. Section 45.051, Education Code, is amended.

SECTION 2. Section 45.052, Education Code, is amended to read as follows:

Sec. 45.052. GUARANTEE. (a) On approval by the commissioner, bonds issued under Subchapter A by a school district, ~~[or]~~ Chapter 53 for a charter district, or Section 1232.1031, Government Code, by the Texas Public Finance Authority, including refunding and refinanced bonds, are guaranteed by the corpus and income of the permanent school fund.

(b) Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district, ~~[or]~~ charter district, or authority bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

(c) In seeking the guarantee of bonds under this subchapter, the authority is subject to each provision of this subchapter that applies to a school district seeking guarantee of school district bonds, except as provided by board rules adopted under Section 45.063.

SECTION 3. Section 45.063, Education Code, is amended.

SECTION 4. Subchapter E, Chapter 45, Education Code, is amended by adding Section 45.116 to read as follows:

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

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

(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;

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Substantially the same as introduced version.

SECTION 2. Section 45.052, Education Code, is amended to read as follows:

Sec. 45.052. GUARANTEE. (a) On approval by the commissioner, bonds issued under Subchapter A by a school district, ~~[or]~~ Chapter 53 for a charter district, or Section 1232.1031, Government Code, by the Texas Public Finance Authority, including refunding and refinanced bonds, are guaranteed by the corpus and income of the permanent school fund.

(b) Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district, ~~[or]~~ charter district, or authority bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

(c) In seeking the guarantee of bonds under this subchapter, the authority is subject to each provision of this subchapter that applies to a school district seeking guarantee of school district bonds, except as provided by board rules adopted under Section 45.063.

(d) A reference in this subchapter to bonds issued by the Texas Public Finance Authority includes short-term debt obligations and any other obligations the authority is authorized to issue under Section 1232.1031, Government Code.

SECTION 3. Same as introduced version.

SECTION 4. Subchapter E, Chapter 45, Education Code, is amended by adding Section 45.116 to read as follows:

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

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

(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

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

(b) A school district may:

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

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

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

(B) obtaining credit enhancement under Subchapter I.

SECTION 5. Section 45.252, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A school district may apply for credit enhancement under this subchapter of bonds issued under Section 45.116.

SECTION 6. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.1031 to read as follows:

Sec. 1232.1031. ISSUANCE OF OBLIGATIONS TO ASSIST SCHOOL DISTRICTS. (a) The authority may issue and sell obligations to finance:

(1) loans to eligible school districts for eligible purposes;

(2) purchase by the authority of vehicles, equipment, or appliances for sale, lease, or lease purchase to eligible school districts;

(3) a lease or other agreement that concerns equipment that an eligible school district has purchased or leased or intends to purchase or lease; or

(4) costs associated with maintenance, repair, rehabilitation, or renovation of eligible school district facilities.

(b) The authority may use proceeds of obligations issued under this section to pay costs of administering this section, including costs of issuing obligations.

(c) In connection with a purchase or project

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

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

(b) A school district may:

(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

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

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

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

(C) obtaining credit enhancement under Subchapter I.

SECTION 5. Section 45.252, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A school district may apply for credit enhancement under this subchapter of obligations issued under Section 45.116.

SECTION 6. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.1031 to read as follows:

Sec. 1232.1031. ISSUANCE OF OBLIGATIONS TO ASSIST SCHOOL DISTRICTS. (a) The authority may issue and sell obligations to finance:

(1) loans to eligible school districts for eligible purposes;

(2) the purchase by the authority of vehicles, equipment, or appliances for sale, lease, or lease purchase to eligible school districts;

(3) a lease or other agreement that concerns equipment that an eligible school district has purchased or leased or intends to purchase or lease; and

(4) costs associated with maintenance, repair, rehabilitation, or renovation of eligible school district facilities.

(b) The authority may use proceeds of obligations issued under this section to pay costs of administering this section, including costs of issuing obligations.

(c) In connection with a purchase or project

financed with the proceeds of obligations issued under this section, the authority may:
(1) enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with eligible school districts; or

(2) enter into credit agreements and exercise other powers granted to issuers under Chapter 1371.

(d) The authority may secure payment of authority obligations issued under this section with the pledge of money in the school district equipment and improvement fund established under Subsection (e).

(e) The school district equipment and improvement fund is established outside the treasury as a trust fund and is administered by the comptroller on behalf of the authority as directed or agreed to by the board. The fund consists of proceeds of obligations issued by the authority under this section and the proceeds of obligations issued by school districts and purchased by the authority with proceeds of authority obligations. Money in the fund may be spent without appropriation and be used only to fund activities under this section or to secure repayment of authority obligations. Interest and income from the assets of the fund shall be credited to and deposited in the fund.

(f) The board may establish funds and accounts determined to be necessary or appropriate in connection with the activities of the authority under this section.

(g) The aggregate amount of outstanding obligations issued by the authority under this section may not exceed \$100 million.

(h) The board shall adopt rules necessary to implement this section, including rules prescribing eligibility requirements for school districts seeking assistance under this section, rules identifying eligible purposes for purposes of Subsection (a)(1), and rules identifying eligible school district facilities for purposes of Subsection (a)(4). Before adopting or modifying a rule under this subsection, the board shall consult with the commissioner of education.

(i) Rules adopted under Subsection (h) may establish a process under which a school district must obtain approval by the

financed with the proceeds of obligations issued under this section, the authority may:
(1) enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with eligible school districts;

(2) purchase obligations issued by eligible school districts; and

(3) enter into credit agreements and exercise other powers granted to issuers under Chapter 1371.

(d) The authority may secure payment of authority obligations issued under this section with the pledge of money in the school district equipment and improvement fund established under Subsection (e).

(e) The school district equipment and improvement fund is established outside the treasury as a trust fund and is administered by the comptroller on behalf of the authority as directed or agreed to by the board. The fund consists of proceeds of obligations issued by the authority under this section and obligations and agreements issued or executed by school districts and purchased or funded by the authority with proceeds of authority obligations. Money in the fund may be spent without appropriation and may be used only to fund activities under this section or to secure repayment of authority obligations. Interest and income from the assets of the fund shall be credited to and deposited in the fund.

(f) The board may establish funds and accounts determined to be necessary or appropriate in connection with the activities of the authority under this section.

(g) The aggregate amount of obligations issued by the authority under this section outstanding at one time may not exceed \$100 million.

(h) The board shall adopt rules necessary to implement this section, including rules prescribing eligibility requirements for school districts seeking assistance under this section, rules identifying eligible purposes for purposes of Subsection (a)(1), and rules identifying eligible school district facilities for purposes of Subsection (a)(4). Before adopting or modifying a rule under this subsection, the board shall consult with the commissioner of education.

(i) Rules adopted under Subsection (h) may establish a process under which a school district must obtain approval by the

commissioner of education in order to be eligible for assistance under this section.

(j) The authority may not issue an obligation under this section on or after September 1, 2021.

SECTION 7. This Act takes effect September 1, 2017.

commissioner of education in order to be eligible for assistance under this section.

(j) The authority may not issue an obligation under this section on or after September 1, 2021. The prohibition imposed by this subsection does not apply to:

(1) refunding bonds issued by the authority in accordance with Chapter 1207; or

(2) other obligations issued by the authority to refinance obligations incurred under this section before September 1, 2021.

SECTION 7. Same as introduced version.