

By: Shine

H.B. No. 3604

A BILL TO BE ENTITLED

AN ACT

relating to the guarantee by the permanent school fund of bonds issued by a charter district on the approval of the Bond Review Board.

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

SECTION 1. Section 12.135(a), Education Code, is amended to read as follows:

(a) On the application of the charter holder, the commissioner may grant designation as a charter district to an open-enrollment charter school that meets financial standards adopted by the Bond Review Board ~~[commissioner]~~. The financial standards must require an open-enrollment charter school to have an investment grade credit rating as specified by Section 45.0541.

SECTION 2. Section 45.052, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) On approval by the commissioner, bonds issued under Subchapter A by a school district ~~[or Chapter 53 for a charter district]~~, including refunding and refinanced bonds, are guaranteed by the corpus and income of the permanent school fund.

(a-1) On approval by the Bond Review Board, bonds issued under Chapter 53 for a charter district, including refunding and refinanced bonds, are guaranteed by the corpus and income of the permanent school fund. The Bond Review Board must impose an

1 appropriate debt limit for a charter district seeking the guarantee
2 of bonds under this section. A bond may not be guaranteed under
3 this section unless:

4 (1) the charter district produces an independent
5 feasibility study documenting the student demand and corresponding
6 revenues of the open-enrollment charter school that will benefit
7 from the bond proceeds;

8 (2) the charter district demonstrates the manner in
9 which the open-enrollment charter school will benefit from the bond
10 proceeds;

11 (3) the charter district demonstrates that the
12 open-enrollment charter school attained a minimum student
13 retention rate in each of the last three school years, as determined
14 by the Bond Review Board; and

15 (4) the charter district establishes that the
16 open-enrollment charter school will maintain an acceptable
17 academic accountability rating under Chapter 39.

18 SECTION 3. Sections 45.053(a), (c), and (d), Education
19 Code, are amended to read as follows:

20 (a) Except as provided by Subsection (d), the commissioner
21 and the Bond Review Board may not approve bonds for guarantee under
22 this subchapter if the approval would result in the total amount of
23 outstanding guaranteed bonds under this subchapter exceeding an
24 amount equal to 2-1/2 times the cost value of the permanent school
25 fund, as estimated by the board and certified by the state auditor.

26 (c) The commissioner, with assistance from the Bond Review
27 Board, shall prepare and the board shall adopt an annual report on

1 the status of the guaranteed bond program under this subchapter.

2 (d) The board by rule may increase the limit prescribed by
3 Subsection (a) to an amount not to exceed five times the cost value
4 of the permanent school fund, provided that the increased limit is
5 consistent with federal law and regulations and does not prevent
6 the bonds to be guaranteed from receiving the highest available
7 credit rating, as determined by the board. The board shall at least
8 annually consider whether to change any limit in accordance with
9 this subsection. This subsection may not be construed in a manner
10 that impairs, limits, or removes the guarantee of bonds that have
11 been approved by the commissioner or the Bond Review Board.

12 SECTION 4. Sections 45.0532(a), (a-1), (c), and (d),
13 Education Code, are amended to read as follows:

14 (a) In addition to the general limitation under Section
15 45.053, the Bond Review Board [~~commissioner~~] may not approve
16 charter district bonds for guarantee under this subchapter in a
17 total amount that exceeds the percentage of the total available
18 capacity of the guaranteed bond program that is equal to the
19 percentage of the number of students enrolled in open-enrollment
20 charter schools in this state compared to the total number of
21 students enrolled in all public schools in this state, as
22 determined by the Bond Review Board [~~commissioner~~].

23 (a-1) The Bond Review Board [~~commissioner~~] may not approve
24 charter district refunding or refinanced bonds for guarantee under
25 this subchapter in a total amount that exceeds one-half of the total
26 amount available for the guarantee of charter district bonds under
27 Subsection (a).

(c) Notwithstanding Subsections (a) and (b), the Bond Review Board ~~[commissioner]~~ may not approve charter district bonds for guarantee under this subchapter if the guarantee will result in lower bond ratings for school district bonds for which a guarantee is requested under this subchapter.

(d) The Bond Review Board ~~[commissioner]~~ may request that the comptroller place the portion of the permanent school fund committed to the guarantee of charter district bonds in a segregated account if the Bond Review Board ~~[commissioner]~~ determines that a separate account is needed to avoid any negative impact on the bond ratings of school district bonds for which a guarantee is requested under this subchapter.

SECTION 5. Section [45.0541](#), Education Code, is amended to read as follows:

Sec. 45.0541. ELIGIBILITY OF CHARTER DISTRICT BONDS. (a) To be eligible for approval by the Bond Review Board ~~[commissioner]~~, charter district bonds must:

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

(2) be issued under Chapter [53](#).

(b) For purposes of Subsection (a)(1), a bond is rated as investment grade if it receives a rating of at least BBB- or the equivalent.

SECTION 6. Section [45.055](#), Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (d) to read as follows:

(a) A school district ~~[or charter district]~~ seeking

1 guarantee of eligible bonds under this subchapter shall apply to
2 the commissioner using a form adopted by the commissioner for the
3 purpose. The commissioner may adopt a single form on which a school
4 district seeking guarantee or credit enhancement of eligible bonds
5 may apply simultaneously first for guarantee under this subchapter
6 and then, if that guarantee is rejected, for credit enhancement
7 under Subchapter I.

8 (a-1) A charter district seeking guarantee of eligible
9 bonds under this subchapter shall apply to the Bond Review Board
10 using a form adopted by the Bond Review Board for that purpose.

11 (b) An application under Subsection (a) or (a-1) must
12 include:

13 (1) the name of the school district or charter
14 district and the principal amount of the bonds to be issued;

15 (2) the name and address of the district's paying agent
16 for those bonds; and

17 (3) the maturity schedule, estimated interest rate,
18 and date of the bonds.

19 (d) An application under Subsection (a-1) must be
20 accompanied by a fee set by rule of the Bond Review Board in an
21 amount designed to cover the costs of administering the program to
22 provide the guarantee of eligible bonds.

23 SECTION 7. Section 45.056, Education Code, is amended to
24 read as follows:

25 Sec. 45.056. INVESTIGATION. (a) Following receipt of an
26 application for the guarantee of bonds, the commissioner shall
27 conduct an investigation of the applicant school district [~~or~~

~~charter district]~~ in regard to:

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

(2) the total amount of outstanding guaranteed bonds.

(a-1) Following receipt of an application for the guarantee of bonds, the Bond Review Board shall conduct an investigation of the applicant charter district in regard to:

(1) the status of the charter district's accreditation; and

(2) the total amount of outstanding guaranteed bonds.

(b) If following the investigation the commissioner is satisfied that the school district's bonds should be guaranteed under this subchapter or provided credit enhancement under Subchapter I, as applicable, ~~[or the charter district's bonds should be guaranteed under this subchapter,~~ the commissioner shall endorse the bonds.

(c) If following the investigation the Bond Review Board is satisfied that the charter district's bonds should be guaranteed under this subchapter, the Bond Review Board shall endorse the bonds.

SECTION 8. Section 45.057, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The Bond Review Board shall endorse bonds approved for guarantee with:

(1) the Bond Review Board stamp; and

(2) a statement relating the Bond Review Board's statutory authority for the guarantee.

SECTION 9. Sections 45.0571(b), (c), (d), and (e),

Education Code, are amended to read as follows:

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

(c) The Bond Review Board ~~[commissioner]~~ may direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.

(d) Each year, the Bond Review Board ~~[commissioner]~~ shall:

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

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

(e) The Bond Review Board ~~[commissioner]~~ shall make recommendations to the legislature based on the review under Subsection (d).

SECTION 10. Section 45.058, Education Code, is amended to read as follows:

Sec. 45.058. NOTICE OF DEFAULT. Immediately following a determination that a school district or charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth day before maturity date:

(1) ~~the school district [or charter district]~~ shall notify the commissioner; and

(2) the charter district shall notify the Bond Review Board.

SECTION 11. Sections 45.0591(a), (b), and (d), Education Code, are amended to read as follows:

(a) Immediately following receipt of notice under Section 45.058 that a charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the Bond Review Board ~~[commissioner]~~ shall instruct the comptroller to transfer from the charter district bond guarantee reserve fund created under Section 45.0571 to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

(b) If money in the charter district bond guarantee reserve fund is insufficient to pay the amount due on a bond under Subsection (a), the Bond Review Board ~~[commissioner]~~ shall instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the balance of the unpaid maturing or matured

1 principal or interest.

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

7 SECTION 12. Section 45.061, Education Code, is amended by
8 amending Subsections (a) and (b) and adding Subsections (a-2) and
9 (b-1) to read as follows:

10 (a) If the commissioner orders payment from the permanent
11 school fund ~~[or the charter district bond guarantee reserve fund]~~
12 on behalf of a school district ~~[or charter district]~~, the
13 commissioner shall direct the comptroller to withhold the amount
14 paid, plus interest, from the first state money payable to the
15 school district ~~[or charter district]~~. The ~~[Except as provided by~~
16 ~~Subsection (a-1), the]~~ amount withheld shall be deposited to the
17 credit of the permanent school fund.

18 (a-2) If the Bond Review Board orders payment from the
19 permanent school fund or the charter district bond guarantee
20 reserve fund on behalf of a charter district, the Bond Review Board
21 shall direct the comptroller to withhold the amount paid, plus
22 interest, from the first state money payable to the charter
23 district. Except as provided by Subsection (a-1), the amount
24 withheld shall be deposited to the credit of the permanent school
25 fund.

26 (b) In accordance with the rules of the board, the
27 commissioner may authorize reimbursement to the permanent school

1 fund ~~[or charter district bond guarantee reserve fund]~~ with
2 interest in a manner other than that provided by this section.

3 (b-1) In accordance with the rules of the Bond Review Board,
4 the Bond Review Board may authorize reimbursement to the permanent
5 school fund or charter district bond guarantee reserve fund with
6 interest in a manner other than that provided by this section.

7 SECTION 13. Section 45.062(a-1), Education Code, is amended
8 to read as follows:

9 (a-1) If a total of two or more payments are made under this
10 subchapter on charter district bonds and the Bond Review Board
11 ~~[commissioner]~~ determines that the charter district is acting in
12 bad faith under the guarantee program under this subchapter, the
13 Bond Review Board ~~[commissioner]~~ may request the attorney general
14 to institute appropriate legal action to compel the charter
15 district and its officers, agents, and employees to comply with the
16 duties required of them by law in regard to the bonds.

17 SECTION 14. Section 45.063, Education Code, is amended to
18 read as follows:

19 Sec. 45.063. RULES. (a) The board may adopt rules
20 necessary for the administration of the bond guarantee program.

21 (b) The Bond Review Board may adopt rules necessary for the
22 administration of the bond guarantee program for charter districts.

23 SECTION 15. This Act takes effect September 1, 2017.