

By: Hughes

S.B. No. 1480

A BILL TO BE ENTITLED

AN ACT

relating to the guarantee of school district and charter district bonds by the permanent school fund.

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

SECTION 1. Section 45.0532, Education Code, is amended by amending Subsections (a), (a-1), and (b) and adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows:

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

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

(b) For purposes of this section [~~Subsection (a)~~], the charter [~~total available~~] capacity of the guaranteed bond program is the percentage of the total capacity of the guaranteed bond program [~~limit~~] established by the board under Sections 45.053(d)

1 and 45.0531 that is equal to the percentage of the number of  
2 students enrolled in open-enrollment charter schools in this state  
3 compared to the total number of students enrolled in all public  
4 schools in this state, as determined by the commissioner [~~minus the~~  
5 ~~total amount of outstanding guaranteed bonds~~]. Each time the board  
6 increases the limit under Section 45.053(d), the total amount of  
7 charter district bonds that may be guaranteed increases accordingly  
8 under Subsection (a).

9 (b-1) The charter capacity provided by Subsection (b)  
10 applies beginning with the state fiscal year that begins September  
11 1, 2021. Subject to Subsections (b-2) and (b-3), the board shall  
12 establish a charter capacity for the preceding state fiscal years  
13 by increasing the total limitation on the amount of charter  
14 district bonds that could be guaranteed under the law in effect on  
15 January 1, 2017, by the following amount:

16 (1) for the state fiscal year that begins September 1,  
17 2017, 20 percent of the difference between the charter capacity  
18 provided by Subsection (b) and the charter capacity in effect on  
19 January 1, 2017;

20 (2) for the state fiscal year that begins September 1,  
21 2018, 40 percent of the difference between the charter capacity  
22 provided by Subsection (b) and the charter capacity in effect on  
23 January 1, 2017;

24 (3) for the state fiscal year that begins September 1,  
25 2019, 60 percent of the difference between the charter capacity  
26 provided by Subsection (b) and the charter capacity in effect on  
27 January 1, 2017; and

1           (4) for the state fiscal year that begins September 1,  
2 2020, 80 percent of the difference between the charter capacity  
3 provided by Subsection (b) and the charter capacity in effect on  
4 January 1, 2017.

5           (b-2) For any year, the board may increase the charter  
6 capacity by less than the amount provided by Subsection (b-1) or may  
7 decline to increase the charter capacity by any amount if:

8           (1) the board determines that increasing the charter  
9 capacity by the amount provided by Subsection (b-1) would likely  
10 result in a negative impact on the bond ratings provided by one or  
11 more nationally recognized investment rating firms for school  
12 district or charter district bonds for which a guarantee is  
13 requested under this subchapter; or

14           (2) one or more charter districts default on payment  
15 of maturing or matured principal or interest on a guaranteed bond,  
16 resulting in a negative impact on the bond ratings provided by one  
17 or more nationally recognized investment rating firms for school  
18 district or charter district bonds for which a guarantee is  
19 requested under this subchapter.

20           (b-3) If the board makes a determination described by  
21 Subsection (b-2) for any year and modifies the schedule provided by  
22 Subsection (b-1) for that year, the board may also make appropriate  
23 adjustments to the schedule for subsequent years to reflect the  
24 modification, provided that the charter capacity for any year may  
25 not exceed the limit provided for that year by the schedule.

26           (b-4) Subsections (b-1), (b-2), and (b-3) and this  
27 subsection expire September 1, 2022.

1 SECTION 2. Subchapter C, Chapter 45, Education Code, is  
2 amended by adding Section 45.0533 to read as follows:

3 Sec. 45.0533. COMMUNICATION WITH NATIONALLY RECOGNIZED  
4 INVESTMENT RATING FIRM. Information obtained from a nationally  
5 recognized investment rating firm relating to Section 45.053,  
6 45.0531, or 45.0532 that concerns a hypothetical or actual scenario  
7 relating to the credit rating of the permanent school fund or the  
8 bond guarantee program of the permanent school fund, and any  
9 communications from, or information generated by, the agency, the  
10 board, the commissioner, or their employees relating to that  
11 information, is confidential and not subject to disclosure under  
12 Chapter 552, Government Code.

13 SECTION 3. Section 45.056, Education Code, is amended by  
14 adding Subsection (a-1) to read as follows:

15 (a-1) For purposes of this subsection, "bond security  
16 documents" include the resolution, trust agreement, indenture,  
17 ordinance, loan agreement, deed of trust, bond, note, and any  
18 additional document executed in connection with the issuance of a  
19 charter district bond for which a guarantee is requested under this  
20 subchapter. The commissioner's investigation of an application  
21 submitted by a charter district may include evaluation of whether  
22 the charter district bond security documents provide a security  
23 interest in real property pledged as collateral for the bond and the  
24 repayment obligation under the proposed guarantee. The  
25 commissioner may decline to approve the application if the  
26 commissioner determines that sufficient security is not provided.

27 SECTION 4. Subchapter C, Chapter 45, Education Code, is

1 amended by adding Section 45.0561 to read as follows:

2 Sec. 45.0561. COMMISSIONER CONSIDERATION OF ADDITIONAL  
3 FACTORS FOR CHARTER DISTRICT BONDS. (a) In addition to  
4 considering all other applicable requirements under this  
5 subchapter, in determining whether to approve charter district  
6 bonds for guarantee the commissioner may consider any additional  
7 reasonable factor that the commissioner determines necessary to  
8 protect the guarantee program or minimize risk to the permanent  
9 school fund, including:

10 (1) whether the charter district had an average daily  
11 attendance of more than 75 percent of its student capacity for each  
12 of the preceding three school years, or for each school year of  
13 operation if the charter district has not been in operation for the  
14 preceding three school years;

15 (2) the performance of the charter district under  
16 Sections 39.053 and 39.054; and

17 (3) any other indicator of performance that could  
18 affect the charter district's financial performance.

19 (b) This section expires September 1, 2019.

20 SECTION 5. Section 45.0571, Education Code, is amended by  
21 adding Subsections (a-1) and (a-2) and amending Subsections (b) and  
22 (c) to read as follows:

23 (a-1) Notwithstanding Chapter 404, Government Code, the  
24 charter district bond guarantee reserve fund is managed by the  
25 board in the same manner that the permanent school fund is managed  
26 by the board. The board may invest money in the charter district  
27 bond guarantee reserve fund in accordance with the investment

1 standard described by Section 404.024(j), Government Code, and the  
2 board's investment is not subject to any other limitation or  
3 requirement provided by Section 404.024, Government Code.

4 (a-2) The board shall adjust the investment portfolio of  
5 charter district bond guarantee reserve fund money periodically to  
6 ensure that the balance of the fund is sufficient to meet the cash  
7 flow requirements of the fund.

8 (b) Subject to Subsection (c), a [A] charter district that  
9 has a bond guaranteed as provided by this subchapter must  
10 ~~[annually]~~ remit to the commissioner, for deposit in the charter  
11 district bond guarantee reserve fund, an amount equal to 20 ~~[10]~~  
12 percent of the savings to the charter district that is a result of  
13 the lower interest rate on the bond due to the guarantee by the  
14 permanent school fund. The amount due under this section shall be  
15 ~~[amortized and]~~ paid on receipt by the charter district of the bond  
16 proceeds ~~[over the duration of the bond. Each payment is due on the~~  
17 ~~anniversary of the date the bond was issued]~~. The commissioner  
18 shall adopt rules to determine the amount ~~[total and annual~~  
19 ~~amounts]~~ due under this section.

20 (c) Subsection (b) does not apply if, at the time the  
21 charter district receives the proceeds of the bond guaranteed as  
22 provided by this subchapter, the balance of the charter district  
23 bond guarantee reserve fund is at least equal to three percent of  
24 the total amount of outstanding guaranteed bonds issued by charter  
25 districts. ~~[The commissioner may direct the comptroller to~~  
26 ~~annually withhold the amount due to the charter district bond~~  
27 ~~guarantee reserve fund under Subsection (b) for that year from the~~

1 ~~state funds otherwise payable to the charter district.]~~

2           SECTION 6. Section 45.0571, Education Code, as amended by  
3 this Act, applies only to a charter district bond that is approved  
4 by the commissioner of education for guarantee under Subchapter C,  
5 Chapter 45, Education Code, on or after the effective date of this  
6 Act. A charter district bond that is approved by the commissioner  
7 of education for guarantee under Subchapter C, Chapter 45,  
8 Education Code, before the effective date of this Act is governed by  
9 the law in effect on the date the bond is approved for guarantee,  
10 and the former law is continued in effect for that purpose.

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