

BILL ANALYSIS

Senate Research Center

H.B. 1131
By: Cole et al. (Hughes)
Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Public Finance Authority was established in 1983 and offers beneficial financing options for 28 state agencies, some of which are institutions of higher education. When a state agency has been authorized and appropriated funds for a legislatively authorized purpose, the Texas Public Finance Authority can assist that agency with financing options and be repaid with appropriated state funds. Having one entity that serves state agencies in this way reduces the costs of financing.

The same concept can be applied to public schools, particularly smaller school districts in rural areas that may not have many financing options. For example, a school district cannot afford to go through a costly bond issue for standard equipment purchases or maintenance items. Alternative financing options may not be readily available, however. Under H.B. 1131, TPFA would be able to assist school districts with lease or lease-purchase agreements and financing for smaller-scale expenses related to maintenance, equipment, repair, and renovation (not new construction). Financing offered by TPFA would be guaranteed by the Permanent School Fund (PSF). Default and repayment provisions under Chapter 45, Education Code, related to guaranteed bonds would be applied to the TPFA program under H.B. 1131.

State money payable to a school district is available under the bill to reimburse any default covered by the PSF. The total amount of financing is limited to \$100 million, and new obligations may not be issued after September 1, 2023, to allow the legislature to review the program after several years of operation.

H.B. 1131 amends current law relating to the creation of a state financing program administered by the Texas Public Finance Authority to assist school districts with certain expenses, and grants authority to issue bonds or other obligations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of directors of the Texas Public Finance Authority in SECTION 6 (Section 1232.1031, Government Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 4 (Section 45.063, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 45.051, Education Code, as follows:

Sec. 45.051. DEFINITIONS. Defines "authority," "board," and "charter district," and redefines "paying agent" for purposes of this subchapter (Guaranteed Bonds) and makes nonsubstantive changes.

SECTION 2. Amends Section 45.052, Education Code, as follows:

Sec. 45.052. GUARANTEE. (a) Provides that, on approval by the commissioner of education (commissioner), bonds issued under Subchapter A (Tax Bonds and Maintenance Taxes) by a school district, Chapter 53 (Higher Education Facility

Authorities For Public Schools), for a charter district, or Section 1232.1031, Government Code, by the Texas Public Finance Authority (TPFA), rather than 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.

(b) Provides that, notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district, charter district, or TPFA bonds, rather than the guarantee under this subchapter of school district or charter district bonds, remains in effect until the date those bonds mature or are defeased in accordance with state law.

(c) Provides that, in seeking the guarantee of bonds under this subchapter, TPFA is subject to each provision of this subchapter that applies to a school district seeking guarantee of school district bonds, except as provided by State Board of Education (SBOE) rules adopted under Section 45.063.

(d) Provides that a reference in this subchapter to bonds issued by TPFA includes short-term debt obligations and any other obligations TPFA is authorized to issue under Section 1232.1031, Government Code.

SECTION 3. Amends Section 45.057(b), Education Code, to provide that the guarantee is not effective unless the Texas attorney general (attorney general) approves the bonds under Section 45.005 (Examination of Bonds by Attorney General) or 53.40 (Approval of Bonds; Registration; Negotiability) of this code or Section 1232.1031, Government Code, as applicable, rather than under Section 45.005 or 53.40, as applicable.

SECTION 4. Amends Section 45.063, Education Code, as follows:

Sec. 45.063. RULES. Authorizes SBOE to adopt rules necessary for the administration of the bond guarantee program, including rules modifying requirements imposed under this subchapter as necessary to facilitate the guarantee of bonds issued by TPFA. Requires the rules to provide for the application of Sections 45.058 (Notice of Default), 45.059 (Payment of School District Bond on Default), 45.060 (Bonds Not Accelerated on Default), 45.061 (Reimbursement of Funds), and 45.062 (Repeated Defaults) to a default in the payment of bonds issued by TPFA and guaranteed under this subchapter in a manner that provides for the withholding of state aid under Section 45.061 that would otherwise be paid to the school district on whose behalf TPFA issued its bonds.

SECTION 5. Amends Subchapter E, Chapter 45, Education Code, by adding Section 45.114, as follows:

Sec. 45.114. ASSISTANCE FROM TEXAS PUBLIC FINANCE AUTHORITY. (a) Authorizes a school district to:

(1) borrow money from TPFA made available in accordance with Section 1232.1031, Government Code; and

(2) as necessary in connection with obtaining loans or other financial assistance from TPFA in accordance with Section 1232.1031, Government Code:

(A) issue bonds and notes, provided that the term of an obligation issued for this purpose is prohibited from exceeding 15 years; and

(B) enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with TPFA.

(b) Authorizes a school district to:

(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; or

(B) imposing an ad valorem maintenance tax otherwise authorized by law.

(c) Requires a school district that secures payment of an obligation or agreement issued or executed under Subsection (a) through imposing an ad valorem maintenance tax to include the obligation or agreement in the district's total maintenance tax debt service when submitting public securities for review to the attorney general under Chapter 1202 (Examination and Registration of Public Securities), Government Code.

SECTION 6. Amends Subchapter C, Chapter 1232, Government Code, by adding Section 1232.1031, as follows:

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

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

(2) the purchase by TPFA 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 improvement of existing instructional facilities, limited to the maintenance, repair, rehabilitation, or renovation of eligible school district facilities.

(b) Authorizes TPFA to use proceeds of obligations issued under this section to pay costs of administering this section, including costs of issuing obligations.

(c) Provides that vehicles, equipment, and appliances are considered furnishings of instructional facilities for purposes of Section 5(d) (relating to authorizing the legislature to provide for the use of the permanent school fund to guarantee bonds for certain purposes), Article VII, Texas Constitution.

(d) Authorizes TPFA, in connection with a purchase or project financed with the proceeds of obligations issued under this section, to:

(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 (Obligations For Certain Public Improvements).

(e) Authorizes TPFA to secure payment of TPFA obligations issued under this section only with the pledge of money in the school district equipment and improvement fund established under Subsection (f).

(f) Provides that the school district equipment and improvement fund is established outside the treasury as a trust fund and is administered by the comptroller of public accounts of the State of Texas on behalf of TPFA as directed or agreed to by the board of directors of TPFA (board). Provides that the fund consists of proceeds of obligations issued by TPFA under this section and obligations and agreements issued or executed by school districts and purchased or funded by TPFA with proceeds of authority obligations. Authorizes money in the fund to be spent without appropriation and to be used only to fund activities under this section or to secure repayment of TPFA obligations. Requires interest and income from the assets of the fund to be credited to and deposited in the fund.

(g) Authorizes the board to establish funds and accounts determined to be necessary or appropriate in connection with the activities of TPFA under this section.

(h) Prohibits the aggregate amount of obligations issued by TPFA under this section from exceeding \$100 million. Provides that an issuance of obligations to refund outstanding obligations is not included in determining the maximum aggregate amount under this subsection if the principal amount of the refunding obligations does not exceed the principal amount of the refunded obligations. Provides that, if the principal amount of the refunding obligations exceeds the principal amount of the refunded obligations, the excess amount of the refunding obligations is included in determining the maximum aggregate amount.

(i) Requires the board to 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). Requires the board, before adopting or modifying a rule under this subsection, to consult with the commissioner.

(j) Authorizes rules adopted under Subsection (i) to establish a process under which a school district is required to obtain approval by the commissioner in order to be eligible for assistance under this section.

(k) Prohibits TPFA from issuing an obligation under this section on or after September 1, 2023. Provides that the prohibition imposed by this subsection does not apply to:

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

(2) other obligations issued by the authority to refinance obligations incurred under this section before September 1, 2023.

(l) Provides that an obligation issued under this section is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of those entities. Authorizes the obligation to only be payable from all or part of the amounts on deposit in the school district equipment and improvement fund established under Subsection (f).

(m) Requires an obligation issued under this section to contain on the obligation's face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the obligation except as provided by this section; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the obligation.

(n) Prohibits TPFA from issuing an obligation under this section until the Texas Bond Review Board has approved the issuance under Chapter 1231 (Bond Review Board).

(o) Requires TPFA, in submitting an obligation for review under Chapter 1202 or 1371, as applicable, to demonstrate to the attorney general the ability of the eligible school district to repay the loan or other financing agreement executed with TPFA.

SECTION 7. Effective date: September 1, 2019.