

BILL ANALYSIS

Senate Research Center

S.B. 740
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Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Public Finance Authority (TPFA) was established in 1983 and offers beneficial financing options for approximately 30 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 that might involve debt financing, the TPFA issues the bonds on behalf of the agency, makes those funds available for the agency's project, and is repaid by the agency from appropriated state funds. Having one entity that serves state agencies in this way saves bond issuance and interest expense.

The same concept can be applied to public schools, particularly smaller school districts 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. Under S.B. 740, the TPFA would provide an alternative means of financing for smaller-scale expenses related to maintenance, equipment, repair, and renovation (not new construction). The TPFA also would be able to facilitate lease and lease-purchase agreements.

Eligibility is limited to school districts with 1,600 students or less. These smaller districts are most in need of the administrative support and financing options available through the TPFA. Repayment protections are included in the bill. If a school district defaults on an obligation, state funding appropriated for the district would be used to cover repayment. 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.

As proposed, S.B. 740 amends current law relating to the creation of a state financing program administered by the Texas Public Finance Authority to assist certain school districts with certain expenses and grants authority to issue bonds or other obligations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Public Finance Authority (TPFA) in SECTION 1 (Section 45.115, Education Code) of this bill.

Rulemaking authority is expressly granted to the board of directors of TPFA in SECTION 3 (Section 1232.1031, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 45, Education Code, by adding Sections 45.114 and 45.115, as follows:

Sec. 45.114. ASSISTANCE FROM TEXAS PUBLIC FINANCE AUTHORITY. (a) Defines "eligible school district."

(b) Authorizes an eligible school district to:

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

(2) as necessary in connection with obtaining loans or other financial assistance from the 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 may not exceed 15 years; and

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

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

(4) secure the payment of an obligation or agreement issued or executed under Subsection (a) through certain actions.

Sec. 45.115. PAYMENT PROTECTIONS FOR TEXAS PUBLIC FINANCE AUTHORITY. (a) Defines "obligation" and "eligible school district."

(b) Requires a district, immediately following a determination that an eligible 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, to notify the commissioner of education (commissioner).

(c) Requires the commissioner, immediately following receipt of notice from an eligible school district under Subsection (b), to instruct the comptroller of public accounts of the State of Texas (comptroller) to transfer to the Texas Public Finance Authority (TPFA) 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) Requires TPFA, immediately following receipt of the funds for payment of the principle interest, to forward the canceled obligation to the comptroller. Requires the comptroller to hold the canceled obligation on behalf of TPFA.

(e) Requires the comptroller, following full reimbursement to TPFA with interest, to cancel the obligation and forward it to the eligible school district.

(f) Provides that if an eligible 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 district's default.

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

(h) Authorizes TPFA to adopt rules necessary for the administration of obligations issued on behalf eligible of school districts.

SECTION 2. Amends Section 45.252, Education Code, by adding Subsection (a-1), as follows:

(a-1) Authorizes a school district that has not more than 1,600 students in average daily attendance to apply for credit enhancement under this subchapter of obligations issued under Section 45.114.

SECTION 3. 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) Defines "eligible school district."

(b) Authorizes TPFA to issue and sell obligations to finance certain projects for eligible school districts.

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

(d) Authorizes TPFA, in connection with a purchase or project financed with the proceeds of obligations issued under this section, to enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with eligible school districts, purchase obligations issued by eligible school districts, and 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 authority obligations issued under this section 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 on behalf of the authority 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 eligible school districts and purchased or funded by TPFA with proceeds of authority obligations. Authorizes the money in the fund to be spent without appropriation and authorizes it to be used only to fund activities under this section or to secure repayment of authority 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 outstanding at one time from exceeding \$100 million.

(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 established under subsection (h) to establish a process under which an eligible school district is required 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 certain financial instruments.

SECTION 4. Effective date: upon passage or on the 91st day after the last day of the legislative session.