86R2570 GRM-D

By:  Zaffirini S.B. No. 398

A BILL TO BE ENTITLED

AN ACT

relating to authorizing a credit union to act as a school district depository.

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

SECTION 1.  Section 7.102(c)(34), Education Code, is amended to read as follows:

(34)  The board shall prescribe uniform bid blanks for school districts to use in selecting a depository bank or credit union as required under Section 45.206.

SECTION 2.  Section 12.107, Education Code, is amended to read as follows:

Sec. 12.107.  STATUS AND USE OF FUNDS. (a) Funds received under Section 12.106 after September 1, 2001, by a charter holder:

(1)  are considered to be public funds for all purposes under state law;

(2)  are held in trust by the charter holder for the benefit of the students of the open-enrollment charter school;

(3)  may be used only for a purpose for which a school may use local funds under Section 45.105(c); and

(4)  pending their use, must be deposited into a bank or credit union, as defined by Section 45.201, with which the charter holder has entered into a depository contract.

(b)  A charter holder shall deliver to the agency a copy of the depository contract between the charter holder and any bank or credit union into which state funds are deposited.

SECTION 3.  Section 45.201, Education Code, is amended by adding Subdivision (5) to read as follows:

(5)  "Credit union" has the meaning assigned by Section 121.002, Finance Code. The term does not include any credit union the deposits of which are not insured by the National Credit Union Share Insurance Fund.

SECTION 4.  Section 45.203, Education Code, is amended to read as follows:

Sec. 45.203.  DEPOSITORY MUST BE A BANK OR CREDIT UNION. A school depository must be a bank or credit union located in this state.

SECTION 5.  Section 45.204, Education Code, is amended to read as follows:

Sec. 45.204.  CONFLICT OF INTEREST. (a) If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank or credit union, the bank or credit union is not disqualified from bidding, submitting a proposal, or becoming the depository of the district if the bank or credit union is selected by a majority vote of the board of trustees of the district or a majority vote of a quorum when only a quorum is present.

(b)  If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank or credit union that has bid or submitted a proposal to become a depository for the district, the member may not vote on awarding a depository contract to the bank or credit union, and the contract must be awarded by a majority vote of the trustees as provided by Subsection (a) who are not either a stockholder, officer, director, or employee of a bank or credit union receiving a district depository contract.

SECTION 6.  Sections 45.205(a) and (b), Education Code, are amended to read as follows:

(a)  Except as provided by Subsection (b), the depository bank or credit union when selected shall serve for a term of two years and until its successor is selected and has qualified.

(b)  A school district and the district's depository bank or credit union may agree to extend a depository contract for three additional two-year terms. The contract may be modified for each two-year extension if both parties mutually agree to the terms. An extension under this subsection is not subject to the requirements of Section 45.206.

SECTION 7.  Sections 45.206(a-1), (a-2), (b), and (d), Education Code, are amended to read as follows:

(a-1)  If a school district chooses under Subsection (a) to use competitive bidding, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank or credit union located in the district and, if desired, to other banks or credit unions, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include a uniform bid blank in the form prescribed by State Board of Education rule.

(a-2)  If a school district chooses under Subsection (a) to use requests for proposals, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank or credit union located in the district and, if desired, to other banks or credit unions, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include a uniform proposal blank in the form prescribed by State Board of Education rule.

(b)  The school district may add to the uniform bid or proposal blank other terms that do not unfairly restrict competition between banks or credit unions in or near the territory of the district.

(d)  If the school district chooses under Subsection (a) to use requests for proposals, the district shall state the selection criteria, including the factors specified under Section 45.207(c), in the request for proposals and shall select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. A district may negotiate with the bank or credit union that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed.

SECTION 8.  Sections 45.207(a), (a-1), (b), and (c), Education Code, are amended to read as follows:

(a)  A school district shall award the depository contract to the bank or credit union that submits the highest bid or the highest-ranked proposal, as determined under Subsection (c), except that the district may award the contract as provided by Subsection (a-1) if:

(1)  the district:

(A)  receives tying bids for the contract; or

(B)  after evaluating the proposals for the contract, ranks two or more proposals equally;

(2)  each bank or credit union submitting a tying bid or proposal has bid or proposed to pay the district the maximum interest rates allowed by law by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation or the National Credit Union Administration Board, as applicable; and

(3)  the tying bids or proposals are otherwise equal in the judgment and discretion of the board of trustees of the district.

(a-1)  In the case of tying bids or proposals, the board of trustees may award the depository contract by:

(1)  determining by lot which of the banks or credit unions submitting the tying bids or proposals will receive the contract; or

(2)  awarding a contract to each of the banks or credit unions submitting the tying bids or proposals.

(b)  The board of trustees may, during the period of the contract, determine the amount of funds to be deposited in each depository bank or credit union and determine the account services offered in the bid or proposal form that are to be provided by each bank or credit union in its capacity as school district depository. All funds received by the district from or through the agency shall be deposited, at the district's option, in one depository bank or credit union or invested in a public funds investment pool created under Chapter 791, Government Code, to be designated by the district.

(c)  The board of trustees of the school district shall at a regular or special meeting consider in accordance with this subsection each bid or proposal received. In determining the highest and best bid or the highest-ranked proposal, or in case of tying bids or proposals the highest and best tying bids or proposals, the board of trustees shall consider:

(1)  the interest rate bid or proposed on time deposits;

(2)  charges for keeping district accounts, records, and reports and furnishing checks;

(3)  the ability of the bank or credit union submitting the bid or proposal to provide the necessary services and perform the duties as school district depository; and

(4)  any other matter that in the judgment of the board of trustees would be to the best interest of the school district.

SECTION 9.  Sections 45.208(a), (b), and (f), Education Code, are amended to read as follows:

(a)  Each [~~The~~] bank or credit union [~~banks~~] selected as a [~~the~~] depository [~~or depositories~~] and the school district shall enter into a depository contract [~~or contracts~~], bond [~~or bonds~~], or other necessary instrument [~~instruments~~] setting forth the duties and agreements pertaining to the depository, in a form and with the content prescribed by the State Board of Education. The parties shall attach to the contract and incorporate by reference the bid or proposal of the depository.

(b)  Each [~~The~~] depository bank or credit union shall attach to the contract and file with the school district a bond in an initial amount equal to the estimated highest daily balance, determined by the board of trustees of the district, of all deposits that the school district will have in the depository during the term of the contract, less any applicable Federal Deposit Insurance Corporation or National Credit Union Share Insurance Fund insurance. The bond must be payable to the school district and must be signed by the depository bank or credit union and by some surety company authorized to do business in this state. The depository bank or credit union shall increase the amount of the bond if the board of trustees determines it to be necessary to adequately protect the funds of the school district deposited with the depository bank or credit union.

(f)  In lieu of the bond required under Subsection (b), a [~~the~~] depository bank or credit union may deposit or pledge, with the school district or with a trustee designated by the school district, approved securities in an amount sufficient to adequately protect the funds of the school district deposited with the depository bank or credit union. A depository bank or credit union may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the school district deposited with the depository bank or credit union. The school district shall designate from time to time the amount of approved securities or the aggregate amount of the bond and approved securities to adequately protect the district. The district may not designate an amount less than the balance of school district funds on deposit with a [~~the~~] depository bank or credit union from day to day, less any applicable Federal Deposit Insurance Corporation or National Credit Union Share Insurance Fund insurance. A [~~The~~] depository bank or credit union may substitute approved securities on obtaining the approval of the school district. For purposes of this subsection, the approved securities are valued at their market value.

SECTION 10.  Section 45.209, Education Code, is amended to read as follows:

Sec. 45.209.  INVESTMENT OF DISTRICT FUNDS. The school district may provide in its bid or proposal blank for the right to place on time deposits with a bank or credit union [~~savings and loan institutions~~] located in this state only funds that are fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. A district may not place on deposit with any bank or credit union [~~savings and loan institution~~] any bond or certificate of indebtedness proceeds as provided by Section 45.102. A depository bank or credit union may not be compelled without its consent to accept on time deposit any bond proceeds under Section 45.102, but a depository bank or credit union may offer a bid or proposal of interest equaling the highest bid or proposal of interest for the time deposit of the bond proceeds tendered by another bank or credit union. If the depository bank or credit union equals the bid or proposal, it is entitled to receive the bond proceeds on time deposit.

SECTION 11.  This Act takes effect September 1, 2019.