

By: Zaffirini

S.B. No. 398

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing a credit union to act as a school district
3 depository.

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

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

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

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

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

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

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

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

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

23 (b) A charter holder shall deliver to the agency a copy of
24 the depository contract between the charter holder and any bank or

1 credit union into which state funds are deposited.

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

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

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

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

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

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

23 (b) If a member of the board of trustees of a school district
24 is a stockholder, officer, director, or employee of a bank or credit
25 union that has bid or submitted a proposal to become a depository
26 for the district, the member may not vote on awarding a depository
27 contract to the bank or credit union, and the contract must be

1 awarded by a majority vote of the trustees as provided by Subsection
2 (a) who are not either a stockholder, officer, director, or
3 employee of a bank or credit union receiving a district depository
4 contract.

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

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

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

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

18 (a-1) If a school district chooses under Subsection (a) to
19 use competitive bidding, the district shall, not later than the
20 30th day before the date the current depository contract expires,
21 mail to each bank or credit union located in the district and, if
22 desired, to other banks or credit unions, a notice stating the time
23 and place in which bid applications will be received for selecting a
24 depository or depositories. The notice must include a uniform bid
25 blank in the form prescribed by State Board of Education rule.

26 (a-2) If a school district chooses under Subsection (a) to
27 use requests for proposals, the district shall, not later than the

1 30th day before the date the current depository contract expires,
2 mail to each bank or credit union located in the district and, if
3 desired, to other banks or credit unions, a notice stating the time
4 and place in which proposals will be received for selecting a
5 depository or depositories. The notice must include a uniform
6 proposal blank in the form prescribed by State Board of Education
7 rule.

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

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

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

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

1 Subsection (a-1) if:

2 (1) the district:

3 (A) receives tying bids for the contract; or

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

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

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

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

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

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

22 (b) The board of trustees may, during the period of the
23 contract, determine the amount of funds to be deposited in each
24 depository bank or credit union and determine the account services
25 offered in the bid or proposal form that are to be provided by each
26 bank or credit union in its capacity as school district depository.

27 All funds received by the district from or through the agency shall

1 be deposited, at the district's option, in one depository bank or
2 credit union or invested in a public funds investment pool created
3 under Chapter 791, Government Code, to be designated by the
4 district.

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

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

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

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

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

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

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

1 parties shall attach to the contract and incorporate by reference
2 the bid or proposal of the depository.

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

17 (f) In lieu of the bond required under Subsection (b), a
18 [~~the~~] depository bank or credit union may deposit or pledge, with
19 the school district or with a trustee designated by the school
20 district, approved securities in an amount sufficient to adequately
21 protect the funds of the school district deposited with the
22 depository bank or credit union. A depository bank or credit union
23 may give a bond and deposit or pledge approved securities in an
24 aggregate amount sufficient to adequately protect the funds of the
25 school district deposited with the depository bank or credit union.
26 The school district shall designate from time to time the amount of
27 approved securities or the aggregate amount of the bond and

1 approved securities to adequately protect the district. The
2 district may not designate an amount less than the balance of school
3 district funds on deposit with a [the] depository bank or credit
4 union from day to day, less any applicable Federal Deposit
5 Insurance Corporation or National Credit Union Share Insurance Fund
6 insurance. A [The] depository bank or credit union may substitute
7 approved securities on obtaining the approval of the school
8 district. For purposes of this subsection, the approved securities
9 are valued at their market value.

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

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

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