87R3184 CAE-D

By:  Cole, VanDeaver, Israel, et al. H.B. No. 586

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a state financing program administered by the Texas Public Finance Authority to assist school districts with certain expenses; granting authority to issue bonds or other obligations.

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

SECTION 1.  Section 45.051, Education Code, is amended to read as follows:

Sec. 45.051.  DEFINITIONS. In this subchapter:

(1)  "Authority" means the Texas Public Finance Authority.

(2)  "Board" means the State Board of Education.

(3) [~~(1-a)~~]  "Charter district" means an open-enrollment charter school designated as a charter district under Section 12.135.

(4) [~~(2)~~]  "Paying agent" means the financial institution that is designated by a school district, a [~~or~~] charter district, or the authority as its agent for the payment of the principal of and interest on guaranteed bonds.

SECTION 2.  Section 45.052, Education Code, is amended to read as follows:

Sec. 45.052.  GUARANTEE. (a) On approval by the commissioner, bonds issued under Subchapter A by a school district, [~~or~~] Chapter 53 for a charter district, or Section 1232.1031, Government Code, by the authority, including refunding and refinanced bonds, are guaranteed by the corpus and income of the permanent school fund.

(b)  Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district, [~~or~~] charter district, or authority bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

(c)  In seeking the guarantee of bonds under this subchapter, the authority is subject to each provision of this subchapter that applies to a school district seeking guarantee of school district bonds, except as provided by board rules adopted under Section 45.063.

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

SECTION 3.  Section 45.057(b), Education Code, is amended to read as follows:

(b)  The guarantee is not effective unless the attorney general approves the bonds under Section 45.005 or 53.40 of this code or Section 1232.1031, Government Code, as applicable.

SECTION 4.  Section 45.063, Education Code, is amended to read as follows:

Sec. 45.063.  RULES. The board may 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 the authority. The rules must provide for the application of Sections 45.058, 45.059, 45.060, 45.061, and 45.062 to a default in the payment of bonds issued by the authority 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 the authority issued its bonds.

SECTION 5.  Subchapter E, Chapter 45, Education Code, is amended by adding Section 45.114 to read as follows:

Sec. 45.114.  ASSISTANCE FROM TEXAS PUBLIC FINANCE AUTHORITY. (a) A school district may:

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

(2)  as necessary in connection with obtaining loans or other financial assistance from the Texas Public Finance Authority 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 Texas Public Finance Authority.

(b)  A school district may:

(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)  A school district that secures payment of an obligation or agreement issued or executed under Subsection (a) through imposing an ad valorem maintenance tax must 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, Government Code.

SECTION 6.  Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.1031 to read as follows:

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

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

(2)  the purchase by the authority 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)  The authority may use proceeds of obligations issued under this section to pay costs of administering this section, including costs of issuing obligations.

(c)  Vehicles, equipment, and appliances are considered furnishings of instructional facilities for purposes of Section 5(d), Article VII, Texas Constitution.

(d)  In connection with a purchase or project financed with the proceeds of obligations issued under this section, the authority may:

(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.

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

(f)  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. The fund consists of proceeds of obligations issued by the authority under this section and obligations and agreements issued or executed by school districts and purchased or funded by the authority with proceeds of authority obligations. Money in the fund may be spent without appropriation and may be used only to fund activities under this section or to secure repayment of authority obligations. Interest and income from the assets of the fund shall be credited to and deposited in the fund.

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

(h)  The aggregate amount of obligations issued by the authority under this section may not exceed $100 million. 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. 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)  The board shall 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). Before adopting or modifying a rule under this subsection, the board shall consult with the commissioner of education.

(j)  Rules adopted under Subsection (i) may establish a process under which a school district must obtain approval by the commissioner of education in order to be eligible for assistance under this section.

(k)  The authority may not issue an obligation under this section on or after September 1, 2025. The prohibition imposed by this subsection does not apply to:

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

(2)  other obligations issued by the authority to refinance obligations incurred under this section before September 1, 2025.

(l)  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. The obligation may 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)  An obligation issued under this section must 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)  The authority may not issue an obligation under this section until the Bond Review Board has approved the issuance under Chapter 1231.

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

SECTION 7.  This Act takes effect September 1, 2021.