

SUBJECT: Powers and duties of cultural education facilities finance corporations

COMMITTEE: Culture, Recreation, and Tourism — favorable, without amendment

VOTE: 6 ayes — Hilderbran, Kuempel, Dukes, Homer, Howard, O'Day

0 nays

1 absent — Phillips

SENATE VOTE: On final passage, April 25 — 29-0

WITNESSES: No public hearing

BACKGROUND: Tax Code, sec. 171.063 exempts various non-profit corporations from the state franchise tax, including all organizations exempted from federal income tax under 26 U.S.C., sec. 501(c)(2 - 8), (10), (16), (19), and (25).

26 U.S.C., sec. 501(c)(3) lists various entities exempted from federal income tax, including corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals. No part of the net earnings of these organizations can benefit any private shareholder or individual, and no substantial part of the activities can include propaganda or otherwise attempt to influence legislation or a political campaign.

Tax Code, sec. 11.18 describes charitable organizations recognized by the state of Texas that are organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and engage exclusively in performing one or more charitable functions.

VTCS, art. 1528m, sec. 4 allows a city or county to create a non-member, non-stock, public, cultural educational facilities finance corporation for the sole purpose of acquiring, constructing, providing, improving, financing, and refinancing cultural facilities for the public purposes stated in the Cultural Education Facilities Finance Corporation Act.

DIGEST: SB 1736 would add to the definition of “cultural facility” in the Cultural Education Facilities Finance Corporation Act any capital expenditure by a user for applicable real or personal property and facilities in which any of the following entities engage in permitted cultural activities:

- non-profit corporations exempt from the state franchise tax;
- an organization described in Tax Code, sec. 11.18; or
- an organization described in 501(c)(3) of the Internal Revenue Code of 1986.

This bill would require corporations created under VTCS, art. 1528m, sec. 4(b) to be created and organized in the same manner as a health facilities development corporation.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS SAY: SB 1736 would clarify existing law to ensure that non-profit organizations can finance cultural activities. Current law regulates cultural organizations and facilities, and restrictive interpretations of this law have prevented cultural organizations and facilities from being able to issue bonds to finance some of their activities. The bill would expand the definition of “cultural facility” in order to include any capital expenditure for property and equipment that would facilitate an approved cultural activity. It further would clarify which non-profit organizations are entitled to form a charitable finance corporation and how to create and organize one if they choose to do so.

OPPONENTS SAY: No apparent opposition.