

SUBJECT: Powers and duties of cultural education facilities finance corporations

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

VOTE: 8 ayes — Homer, D. Howard, Dukes, T. King, Kuempel, McCall, Phillips,  
Thibaut

0 nays

1 absent — Kleinschmidt

SENATE VOTE: On final passage, April 2 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

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 education 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 500 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 engaged 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 also would allow such corporations to exercise powers on behalf of a user outside of Texas, provided the user also conducted lawful activities in Texas.

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, 2009.

**NOTES:** During the 2007 regular session, a similar bill, SB 1736 by Shapiro, passed the Senate, but died on the House General State Calendar.