SUBJECT: Creating a public financing program for school district equipment

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Huberty, Bernal, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

2 absent — Allen, Bohac

WITNESSES: For — Tracy Ginsburg, Texas Association of School Business Officials; Colby Nichols, Texas Rural Education Association; (*Registered, but did not testify*: Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Dax Gonzalez, Texas Association of School Boards)

Against — None

On — Lee Deviney, Texas Public Finance Authority; (*Registered, but did not testify*: Kara Belew, Von Byer, and Leonardo Lopez, Texas Education Agency; Kevin Van Oort, Texas Public Finance Authority)

BACKGROUND: The Texas Public Finance Authority was created in 1984 by the Legislature to provide financing for the construction or acquisition of facilities for state agencies.

DIGEST: CSHB 3438 would establish a school district equipment and improvement fund as a trust fund established outside the treasury and administered by the comptroller. The fund would consist of proceeds from obligations issued by the Texas Public Finance Authority (TPFA), and obligations could not exceed $100 million at any one time.

School districts could borrow money from the TPFA and as necessary in connection with obtaining those loans or other financial assistance:

- issue bonds and notes for terms not to exceed 15 years; and
- enter into loan or lease agreements, lease purchase agreements, or other appropriate financing agreements with the TPFA.

Money in the equipment and improvement fund could be spent without appropriation only to fund eligible activities or to secure repayment of TPFA obligations. Interest and income from fund assets would be credited to the fund.

The obligations would be backed by the Permanent School Fund and could be used to:

- finance loans to eligible school districts for certain purposes;
- the purchase by TPFA of vehicles, equipment, or appliances for sale, lease, or lease purchase to eligible school districts;
- a lease or other agreement that concerns equipment that an eligible school district had purchased or leased or intended to purchase or lease; and
- costs associated with maintenance, repair, rehabilitation, or renovation of eligible school facilities.

A district would be allowed to make payments on an obligation or agreement issued by the TPFA using any available funds, including maintenance and operations tax revenue. A district could secure the payment of an obligation or agreement through a lien against equipment obtained through the program, imposing an ad valorem tax otherwise authorized by law, or obtaining credit under the intercept credit enhancement program in Education Code, ch. 45, subch. I.

The TPFA could use proceeds from issued obligations to:

- enter into loan or lease agreements, lease purchase agreements, or other appropriate financing agreements with eligible districts;
- purchase obligations issued by eligible districts; and
- enter into credit agreements and exercise other powers granted to issuers under Government Code, ch. 1371.

Rules. The TPFA board of directors would be required to adopt rules in consultation with the Commissioner of Education to administer the program, including eligibility requirements for districts, eligible purchases, and eligible school facilities.

The State Board of Education would be authorized to adopt rules to facilitate the guarantee of bonds issued by the TPFA. The rules must provide for Education Code requirements pertaining to a default in the payment of bonds in a manner that provided for the withholding of state aid that would otherwise be paid to the district on whose behalf the TPFA issued its bonds.

Expiration. The TPFA could not issue an obligation under the program on or after September 1, 2021 unless it applied to refunding bonds issued under the program or other obligations issued to refinance obligations incurred under the program before September 1, 2021.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 3438 would help school districts finance capital needs by leveraging the financial strength of the state of Texas. It would provide an additional financing tool to help schools make major purchases such as buses and appliances or upgrade and repair facilities. Under the program, the Texas Public Finance Authority (TPFA) would borrow money to pay for a district's equipment by issuing tax-exempt revenue commercial paper notes. Eligible districts would enter into a lease or loan agreement with the TPFA, which would use the lease payments to repay the principal and interest on the notes. When the lease was fully paid, the district would receive title to the equipment.

The program would lower schools' borrowing costs compared to a vendor lease. It could particularly help smaller districts that may have limited access to capital markets.

While the bill would authorize districts to borrow money from TPFA, districts already have authority to finance these items through other sources, including property taxes. The bill would provide a less expensive option for districts to borrow money for equipment. Creating the fund outside of the state treasury would allow TPFA to execute the transactions without needing legislative appropriations.

The Permanent School Fund guarantee is the key to allowing TPFA to finance equipment at below-market rates. If a district would default on a payment, an amount of state aid equal to the default would be withheld from the district.

OPPONENTS SAY:

CSHB 3438 would increase public debt at a time of growing local debt. It could lead to higher taxes if districts needed to raise additional funds to make their equipment lease or loan payments to the TFPA. Because the fund would be guaranteed by the Permanent School Fund, the state would be responsible for payment in the event a district defaulted on an agreement. The bill is inconsistent with limited government principles by dedicating funds outside of the state treasury and without legislative appropriation.

NOTES:

The Legislative Budget Board estimates the bill would have an administrative cost of $133,158 in fiscal 2018 and $130,958 in subsequent years for salary and related costs for one FTE to implement the program at the Texas Public Finance Authority.