

## **BILL ANALYSIS**

Senate Research Center  
80R5628 ESH-F

H.B. 1400  
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Education  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2001, the legislature enacted legislation to strengthen the accountability and oversight provisions regarding the operation of open-enrollment charter schools. Included in the legislation was a provision giving the Texas Public Finance Authority the power to create the Charter School Finance Corporation. Through the corporation, charter schools were given additional access to tax-exempt financing for construction and repair of facilities. However, many technical problems in the law were uncovered as a result of these transactions being approved by the attorney general.

H.B. 1400 corrects these technical issues, primarily by requiring the bond issues to comply with certain requirements and clarifying the applicability of existing state bond issuing procedures. The bill also expands the use of the credit enhancement fund, established under the original law and funded with a federal grant, for bonds for charter schools, and authorizes its use for any type of credit support including direct loans.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the nonprofit corporation established by the Texas Public Finance Authority is modified in SECTION 1 (Section 53.351, Education Code), of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 53.351(a), (c), (d), and (e), Education Code, as follows:

- (a) Requires the Texas Public Finance Authority to establish a nonprofit corporation (corporation) to act on behalf of the state, as its duly constituted authority and instrumentality, to issue revenue bonds for authorized open-enrollment charter schools (charter schools) for the acquisition, construction, repair, or renovation of those schools' educational facilities. Makes a conforming deletion.
- (c) Provides that the corporation has all powers granted under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.), or granted to a corporation under the Business Organizations Code, for the purpose of aiding authorized charter schools in providing educational facilities. Provides that Sections 53.38 (Reserves for Operating and other Expenses), 53.40 (Approval of Bonds; Registration; Negotiability), and 53.41 (Authorized Investments), rather than 53.36(a) (requiring a notice to be issued in certain newspapers within a certain time period regarding the adoption of a resolution authorizing the issuance of bonds) 53.37 (Junior Lien Bonds; Parity Bonds), 53.39 (Refunding Bonds), and 53.42 (Investment of Funds; Security) apply to and govern the corporation and its procedures and bonds. Authorizes the corporation to exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and the execution of credit agreements under Chapter 1371 (Obligation for Certain Public Improvements), Government Code.
- (d) Requires the corporation to adopt rules governing the issuance of bonds under this section, rather than on behalf of an authorized charter school.
- (e) Requires the comptroller of public accounts to establish a fund dedicated to the credit enhancement of bonds issued by any issuer under this subchapter (Powers and Duties),

rather than this section, or any open-enrollment charter school. Authorizes the corporation to use the money held under this subsection to provide loans or other credit support for the obligations of any charter school issued by any issuer in any manner not inconsistent with the Texas Non-Profit Corporation Act (Article 1396-1.01, V.T.C.S.), or the provisions of the Business Organizations Code governing nonprofit corporations.

SECTION 2. Effective date: upon passage or September 1, 2007.