

BILL ANALYSIS

Senate Research Center
84R17565 CAE-F

H.B. 2851
By: Parker (Taylor, Van)
State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties have expressed concerns regarding certain aspects of the Charter School Finance Corporation (CSFC), which was created by the Texas Public Finance Authority to issue revenue bonds and lend the bond proceeds to authorized charter schools to help such schools finance or refinance the acquisition, construction, or improvement of educational facilities. The parties note that, unlike a state agency board of directors or another similar corporation established as an instrumentality of the state, neither the CSFC's directors and officers nor any directors, officers, or employees of the finance authority acting on the corporation's behalf are granted statutory immunity from personal liability for claims arising as a result of the performance of their official duties or on any commitment or agreement executed on the corporation's behalf.

According to those interested parties, the finance authority until recently had purchased directors and officers liability insurance in order to allow the CSFC to perform its statutory functions, but that coverage ceased when the insurance carrier providing the coverage exited the directors and officers liability line of business. Although the finance authority is working with the State Office of Risk Management to find a replacement carrier, concerns remain that any replacement policy would both require a much higher premium and have a substantially higher deductible, putting such a policy beyond the CSFC's budgetary constraints. Further, the absence of a liability insurance policy impedes CSFC's ability to meet to take any action related to bond issuance or applications for certain awards. H.B. 2851 provides that a director, officer, or employee of the CSFC shall not be held personally liable for damages, losses or injuries, or any commitment or agreement executed for the purpose of supporting revenue bonds issued by the corporation.

H.B. 2851 amends current law relating to the limitation on the liability of the nonprofit corporation established by the Texas Public Finance Authority to issue revenue bonds for open-enrollment charter schools to provide educational facilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 53.351(b), Education Code, to require the Texas Public Finance Authority (TPFA) to appoint the directors of the nonprofit corporation established by TPFA in consultation with the commissioner of education and subject to the approval of the governor.

SECTION 2. Amends Subchapter C, Chapter 53, Education Code, by adding Section 53.352, as follows:

Sec. 53.352. LIMITATION ON LIABILITY OF CORPORATION. Provides that a director, officer, or employee of the nonprofit corporation established by TPFA under Section 53.351 is not personally liable:

(1) for damage, loss, or injury resulting from the performance of the person's duties under Section 53.351; or

(2) on any commitment or agreement executed on behalf of the corporation under Section 53.351.

SECTION 3. Effective date: upon passage or September 1, 2015.