

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1480
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Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1, 82nd Legislature, First Called Session, established in 2011 the framework for charter schools to participate in the guaranteed bond program of the permanent school fund (PSF). Under that framework, charter schools may access the guaranteed bond program's available capacity equivalent to the number of charter school students as a percentage of the total public school population. In practical terms, this statutory language means that charter schools may use roughly 4.6 percent of the available capacity of the guaranteed bond program as they enroll 4.6 percent of the students in Texas public schools (as of February 2016). In dollar terms, there is \$93.9 billion in guarantee capacity in the PSF for school district and charter school bonds (as of November 2016). Of this amount, \$70.7 billion has been used for bond guarantees, leaving about \$23.2 billion in available capacity. Charter schools can access only 4.6 percent of this amount, however, or roughly \$1.06 billion. They have used all of this capacity and would benefit from greater access to the guaranteed bond program.

Charter schools that participate in the guaranteed bond program have to meet rigorous financial guidelines and pass thorough review by the commissioner of education (commissioner) and the Texas attorney general (attorney general). Charter school bonds must be categorized as "investment grade" by independent credit rating agencies before being considered for approval by the commissioner. Such agencies conduct a thorough review of the academic, financial, and management performance of the charter school. If credit rating criteria are met, charter schools must demonstrate a track record of proven academic and management performance to the commissioner and the attorney general. Taken together, the market-based and state performance guidelines to participate in the guaranteed bond program impose stringent eligibility requirements on charter schools; only 14 out of 185 charters have met such standards. Furthermore, charter schools that participate in the guaranteed bond program are required to pay 10 percent of their interest savings into a reserve fund as an additional financial safeguard.

Charter schools face a waiting list of over 140,000 students. To help meet this demand, S.B. 1480 gives qualified charter schools access to the total capacity (instead of the available capacity) of the guaranteed bond program equivalent to the number of charter school students as a percentage of the total public school population. Using the numbers above, if the total capacity of the PSF for guarantee of school district and charter school bonds is \$93.9 billion, then charter schools would be eligible to access 4.6 percent of this amount, or roughly \$4.3 billion. Greater access to the guaranteed bond programs does not cost the state additional revenue and results in interest savings that are put back into the classroom. Since the first charter school bonds were issued roughly three years ago, interest savings have totaled \$20.5 million, with projected annual savings of \$10.5 million for the next 25 years. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1480 amends current law relating to the guarantee of school district and charter district bonds by the permanent school fund.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 5 (Section 45.0571, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 45.0532, Education Code, by amending Subsections (a), (a-1), and (b) and adding Subsections (b-1), (b-2), (b-3), and (b-4), as follows:

(a) Prohibits the commissioner of education (commissioner), in addition to the general limitation under Section 45.053 (Limitation; Value Estimates), from approving charter district bonds for guarantee under this subchapter (Guaranteed Bonds) in a total amount that exceeds the charter capacity of the guaranteed bond program (GBP), rather than the percentage of the total available capacity of the GBP that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner.

(a-1) Prohibits the commissioner from approving charter district refunding or refinanced bonds for guarantee under this subchapter in a total amount that exceeds one-half of the charter capacity, rather than exceeds one-half of the total amount available for the guarantee of charter district bonds under Subsection (a).

(b) Provides that, for purposes of this section, the charter capacity of the GBP is the percentage of the total capacity of the GBP established by the State Board of Education (SBOE) under Sections 45.053(d) (relating to authorizing SBOE to increase the amount of cost value of the permanent school fund (PSF) not to exceed a certain amount) and 45.0531 (Additional Limitation: Reservation of Percentage of Permanent School Fund Value) that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner, rather than providing that for purposes of Subsection (a), the total available capacity of the GBP is the limit established by SBOE under Sections 45.053(d) and 45.0531 minus the total amount of outstanding guaranteed bonds.

(b-1) Provides that the charter capacity provided by Subsection (b) applies beginning with the state fiscal year that begins September 1, 2021. Requires SBOE, subject to Subsections (b-2) and (b-3), to establish a charter capacity for the preceding state fiscal years by increasing the total limitation on the amount of charter district bonds that could be guaranteed under the law in effect on January 1, 2017, by a certain percentage for each preceding year.

(b-2) Authorizes SBOE, for any year, to increase the charter capacity by less than the amount provided by Subsection (b-1) or to decline to increase the charter capacity by any amount if:

(1) SBOE determines that increasing the charter capacity by the amount provided by Subsection (b-1) would likely result in a negative impact on the bond ratings provided by one or more nationally recognized investment rating firms for school district or charter district bonds for which a guarantee is requested under this subchapter; or

(2) one or more charter districts default on payment of maturing or matured principal or interest on a guaranteed bond, resulting in a negative impact on the bond ratings provided by one or more nationally recognized investment rating firms for school district or charter district bonds for which a guarantee is requested under this subchapter.

(b-3) Authorizes SBOE, if SBOE makes a determination described by Subsection (b-2) for any year and modifies the schedule provided by Subsection (b-1) for that year, to also make appropriate adjustments to the schedule for subsequent years to reflect the modification, provided that the charter capacity for any year is prohibited from exceeding the limit provided for that year by the schedule.

(b-4) Provides that Subsections (b-1), (b-2), and (b-3) and this subsection expire September 1, 2022.

SECTION 2. Amends Subchapter C, Chapter 45, Education Code, by adding Section 45.0533, as follows:

Sec. 45.0533. COMMUNICATION WITH NATIONALLY RECOGNIZED INVESTMENT RATING FIRM. Provides that information obtained from a nationally recognized investment rating firm relating to Section 45.053, 45.0531, or 45.0532 (Limitation on Guarantee of Charter District Bonds) that concerns a hypothetical or actual scenario relating to the credit rating of the permanent school fund or the bond guaranteed program of PSF, and any communications from, or information generated by, the Texas Education Agency (TEA), SBOE, the commissioner, or their employees relating to that information, is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

SECTION 3. Amends Section 45.056, Education Code, by adding Subsection (a-1), as follows:

(a-1) Defines "bond security documents." Authorizes the commissioner's investigation of an application submitted by a charter district to include evaluation of whether the charter district bond security documents provide a security interest in real property pledged as collateral for the bond and the repayment obligation under the proposed guarantee. Authorizes the commissioner to decline to approve the application, if the commissioner determines that sufficient security is not provided.

SECTION 4. Amends Subchapter C, Chapter 45, Education Code, by adding Section 45.0561, as follows:

Sec. 45.0561. COMMISSIONER CONSIDERATION OF ADDITIONAL FACTORS FOR CHARTER DISTRICT BONDS. (a) Authorizes the commissioner, in addition to considering all other applicable requirements under this subchapter, in determining whether to approve charter district bonds for guarantee to consider any certain additional reasonable factors that the commissioner determines necessary to protect the guarantee program or minimize the risk to PSF.

(b) Provide that this section expires September 1, 2019.

SECTION 5. Amends Section 45.0571, Education Code, by adding Subsections (a-1) and (a-2) and amending Subsections (b) and (c), as follows:

(a-1) Provides that the charter district guarantee reserve fund is managed by SBOE in the same manner that the PSF is managed by SBOE, notwithstanding Chapter 404 (State Treasury Operations of Comptroller), Government Code. Authorizes SBOE to invest money in the charter district bond guarantee reserve fund in accordance with the investment standard described by Section 404.024 (j) (relating to requiring the Texas comptroller of public accounts (comptroller) to invest funds), Government Code, and provides that SBOE's investment is not subject to any other limitation or requirement provided by Section 404.024 (Authorized Investments), Government Code.

(a-2) Requires SBOE to adjust the investment portfolio of charter district bond guarantee reserve fund money periodically to ensure that the balance of the fund is sufficient to meet the cash flow requirements of the fund.

(b) Requires a charter district that has a bond guaranteed as provided by this subchapter to remit, rather than annually remit, to the commissioner, for deposit in the charter district bond guarantee reserve fund, an amount equal to 20, rather than 10, percent of the savings to the charter district that is a result of the lower interest rate on the bond due to the guarantee by PSF, subject to Subsection (c). Requires the amount due under this section to be paid on receipt by the charter district of the bond proceeds, rather than amortized and paid over the duration of the bond. Requires the commissioner to adopt rules to determine the amount, rather than the total and annual amounts, due under this

section. Deletes existing text providing that each payment is due on the anniversary of the date the bond was issued. Makes a nonsubstantive change.

(c) Provides that Subsection (b) does not apply if, at the time the charter district receives the proceeds of the bond guaranteed as provided by this subchapter, the balance of the charter district bond guarantee reserve fund is at least equal to three percent of the total amount of outstanding guaranteed bonds issued by charter districts. Deletes existing text authorizing the commissioner to direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.

SECTION 6. Makes application of Section 45.0571, Education Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2017.