

BILL ANALYSIS

S.B. 597
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Ways & Means
Committee Report (Amended)

BACKGROUND AND PURPOSE

Public schools have access to several funding sources to ensure adequate facilities, such as an interest and sinking tax levy, the existing debt allotment, the instructional facilities allotment, and lower interest rates on bonds backed by the permanent school fund. Despite being part of the state public school system, charter schools currently lack access to these funding options. S.B. 597 seeks to extend the permanent school fund bond backing guarantee to bonds issued by certain open-enrollment charter schools.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 10 of this bill.

ANALYSIS

S.B. 597 amends the Education Code to authorize the commissioner of education, on the application of a charter holder, to grant designation as a charter district to an open-enrollment charter school that meets financial standards adopted by the commissioner. The bill requires the financial standards to require a charter school to have an investment grade credit rating and authorizes a charter district to apply for bonds issued under provisions of law relating to higher education facility authorities for public schools for the charter school to be guaranteed by the permanent school fund. The bill establishes that such bonds are guaranteed by the corpus and income of the permanent school fund on approval by the commissioner and that such a guarantee remains in effect until the date the charter district bonds mature or are defeased in accordance with state law.

S.B. 597 prohibits the commissioner from approving charter district bonds for guarantee in a total amount that exceeds the percentage of the total available capacity of the guaranteed bond program that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in Texas compared to the total number of students enrolled in all public schools in Texas, as determined by the commissioner. The bill establishes that, for purposes of such a limitation, the total available capacity of the guaranteed bond program is the limit established by the State Board of Education under specified provisions of state law minus the total amount of outstanding guaranteed bonds. The bill establishes that, each time the board increases the general limit, the total amount of charter district bonds that may be guaranteed increases accordingly. The bill prohibits the commissioner from approving charter district bonds for guarantee if the guarantee will result in lower bond ratings for school district bonds for which a guarantee is requested.

S.B. 597 authorizes the commissioner to request that the comptroller of public accounts place the portion of the permanent school fund committed to the guarantee of charter district bonds in a segregated account if the commissioner determines that a separate account is needed to avoid any negative impact on the bond ratings of school district bonds for which a guarantee is requested. The bill requires a guarantee of charter district bonds to be made in accordance with

statutory provisions relating to school district funds and any applicable federal law.

S.B. 597 requires charter district bonds, to be eligible for commissioner approval, to, without the guarantee, be rated as investment grade by a nationally recognized investment rating firm and to be issued under provisions of law relating to higher education facility authorities for public schools.

S.B. 597 creates the charter district bond guarantee reserve fund as a special fund in the state treasury outside the general revenue fund. The bill requires money due from a charter district and interest earned on balances in the fund to be deposited in the fund and requires a charter district that has a guaranteed bond to annually remit to the commissioner, for deposit in the fund, an amount equal to 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 the permanent school fund. The bill requires the amount due to be amortized and paid over the duration of the bond and makes each payment due on the anniversary of the date the bond was issued. The bill requires the commissioner to adopt rules to determine the total and annual amounts due.

S.B. 597 authorizes the commissioner to direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund for that year from the state funds otherwise payable to the charter district and requires the commissioner, each year, to review the condition of the bond guarantee program and the amount that must be deposited in the fund from charter districts and to determine if charter districts should be required to submit a greater percentage of the savings resulting from the guarantee. The bill requires the commissioner to make recommendations to the legislature based on this annual review.

S.B. 597 requires the commissioner, immediately following receipt of notice that a charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, to instruct the comptroller to transfer from the charter district bond guarantee reserve fund to the district's paying agent the amount necessary to pay the maturing or matured principal or interest. The bill requires the commissioner, if money in the fund is insufficient to pay the amount due, to instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the balance of the unpaid maturing or matured principal or interest. The bill requires the paying agent, immediately following receipt of the funds for payment, to pay the amount due and forward the canceled bond or coupon to the comptroller and requires the comptroller to hold the canceled bond or coupon on behalf of the fund or funds from which payment was made. The bill requires the comptroller, following full reimbursement to the charter district bond guarantee reserve fund and the permanent school fund, if applicable, with interest, to further cancel the bond or coupon and forward it to the charter district for which payment was made.

S.B. 597 requires any remaining amounts of state money withheld from a charter district if the commissioner orders payment from the permanent school fund as the result of a default of a guaranteed charter district bond, after the permanent school fund has been reimbursed for all money paid from the fund, to be deposited to the credit of the charter district bond guarantee reserve fund. The bill authorizes the commissioner, in accordance with State Board of Education rules, to authorize reimbursement to the charter district bond guarantee reserve fund, in addition to the permanent school fund, with interest in a manner other than that provided by law.

S.B. 597 authorizes the commissioner, if a total of two or more payments are made on charter district bonds and the commissioner determines that the charter district is acting in bad faith under the guarantee program, to request the attorney general to institute appropriate legal action to compel the charter district and its officers, agents, and employees to comply with the duties required of them by law in regard to the bonds. The bill exempts a revenue bond issued for a charter district from certain provisions of law relating to revenue bonds for open-enrollment charter school facilities if the bond is approved for guarantee by the permanent school fund.

S.B. 597 defines "charter district," redefines "paying agent" and "authorized charter school," and makes nonsubstantive changes. The bill makes conforming changes to reflect the inclusion of charter district bonds among provisions of law relating to guaranteed school district bonds.

EFFECTIVE DATE

September 1, 2011.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1

Committee Amendment No. 1 prohibits a person from serving as a member of the governing body of a charter holder, as a member of the governing body of an open-enrollment charter school, or as an officer of an open-enrollment charter school unless the person is a qualified voter. The amendment requires a person serving as a member of the governing body of a charter holder or of an open-enrollment charter school and as an officer of an open-enrollment charter school who receives one of the five highest salaries paid by the charter school to submit to the Texas Education Agency proof of United States citizenship in the form of a certified copy of the person's birth certificate, a United States passport, a certificate of naturalization, or any other form of proof prescribed by the secretary of state.

Committee Amendment No. 2

Committee Amendment No. 2 requires a charter holder or open-enrollment charter school to post on the Internet website of the charter holder or charter school the name, title, and resume of each person serving as a member of the governing body of the charter holder or of the open-enrollment charter school and of each officer of the open-enrollment charter school who receives one of the five highest salaries paid by the charter school.

Committee Amendment No. 3

Committee Amendment No. 3 requires each open-enrollment charter school to post each month on the school's Internet website a copy of the school's checking account transaction register to the extent necessary to provide, for each payment by check or electronic fund transfer or any other method of disbursing funds, the following information: the amount of the payment, the date of the payment, a brief description of the purpose of the payment, and the name of the payee.