

By: Shapiro
(Eissler)

S.B. No. 597

A BILL TO BE ENTITLED

AN ACT

relating to the guarantee of open-enrollment charter school bonds
by the permanent school fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 12, Education Code, is
amended by adding Section 12.135 to read as follows:

Sec. 12.135. DESIGNATION AS CHARTER DISTRICT FOR PURPOSES
OF BOND GUARANTEE. (a) On the application of the charter holder,
the commissioner may grant designation as a charter district to an
open-enrollment charter school that meets financial standards
adopted by the commissioner. The financial standards must require
an open-enrollment charter school to have an investment grade
credit rating as specified by Section 45.0541.

(b) A charter district may apply for bonds issued under
Chapter 53 for the open-enrollment charter school to be guaranteed
by the permanent school fund as provided by Chapter 45.

SECTION 2. Section 45.051, Education Code, is amended by
adding Subdivision (1-a) and amending Subdivision (2) to read as
follows:

(1-a) "Charter district" means an open-enrollment
charter school designated as a charter district under Section
12.135.

(2) "Paying agent" means the financial institution
that is designated by a school district or charter district as its

agent for the payment of the principal of and interest on guaranteed bonds.

SECTION 3. Section 45.052, Education Code, is amended to read as follows:

Sec. 45.052. GUARANTEE. (a) On approval by the commissioner, bonds issued under Subchapter A by a school district or Chapter 53 for a charter district, including refunding bonds, are guaranteed by the corpus and income of the permanent school fund.

(b) Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district or charter district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

SECTION 4. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0532 to read as follows:

Sec. 45.0532. LIMITATION ON GUARANTEE OF CHARTER DISTRICT BONDS. (a) In addition to the general limitation under Section 45.053, the commissioner may not approve charter district bonds for guarantee under this subchapter 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 this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner.

(b) For purposes of Subsection (a), the total available capacity of the guaranteed bond program is the limit established by the board under Sections 45.053(d) and 45.0531 minus the total

amount of outstanding guaranteed bonds. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).

(c) Notwithstanding Subsections (a) and (b), the commissioner may not approve charter district bonds for guarantee under this subchapter if the guarantee will result in lower bond ratings for school district bonds for which a guarantee is requested under this subchapter.

(d) The commissioner may request that the comptroller 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 under this subchapter.

(e) A guarantee of charter district bonds must be made in accordance with this chapter and any applicable federal law.

SECTION 5. Section 45.054, Education Code, is amended to read as follows:

Sec. 45.054. ELIGIBILITY OF SCHOOL DISTRICT BONDS. To be eligible for approval by the commissioner, school district bonds must be issued under Subchapter A of this chapter or under Subchapter A, Chapter 1207, Government Code, to make a deposit under Subchapter B or C of that chapter, by an accredited school district.

SECTION 6. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0541 to read as follows:

1 Sec. 45.0541. ELIGIBILITY OF CHARTER DISTRICT BONDS. To be
2 eligible for approval by the commissioner, charter district bonds
3 must:

4 (1) without the guarantee, be rated as investment
5 grade by a nationally recognized investment rating firm; and

6 (2) be issued under Chapter 53.

7 SECTION 7. Subsections (a) and (b), Section 45.055,
8 Education Code, are amended to read as follows:

9 (a) A school district or charter district seeking guarantee
10 of eligible bonds under this subchapter shall apply to the
11 commissioner using a form adopted by the commissioner for the
12 purpose. The commissioner may adopt a single form on which a school
13 district seeking guarantee or credit enhancement of eligible bonds
14 may apply simultaneously first for guarantee under this subchapter
15 and then, if that guarantee is rejected, for credit enhancement
16 under Subchapter I.

17 (b) An application under Subsection (a) must include:

18 (1) the name of the school district or charter
19 district and the principal amount of the bonds to be issued;

20 (2) the name and address of the district's paying agent
21 for those bonds; and

22 (3) the maturity schedule, estimated interest rate,
23 and date of the bonds.

24 SECTION 8. Section 45.056, Education Code, is amended to
25 read as follows:

26 Sec. 45.056. INVESTIGATION. (a) Following receipt of an
27 application for the guarantee of bonds, the commissioner shall

1 conduct an investigation of the applicant school district or
2 charter district in regard to:

3 (1) the status of the district's accreditation; and

4 (2) the total amount of outstanding guaranteed bonds.

5 (b) If following the investigation the commissioner is
6 satisfied that the school district's bonds should be guaranteed
7 under this subchapter or provided credit enhancement under
8 Subchapter I, as applicable, or the charter district's bonds should
9 be guaranteed under this subchapter, the commissioner shall endorse
10 the bonds.

11 SECTION 9. Subsection (b), Section 45.057, Education Code,
12 is amended to read as follows:

13 (b) The guarantee is not effective unless the attorney
14 general approves the bonds under Section 45.005 or 53.40, as
15 applicable.

16 SECTION 10. Subchapter C, Chapter 45, Education Code, is
17 amended by adding Section 45.0571 to read as follows:

18 Sec. 45.0571. CHARTER DISTRICT BOND GUARANTEE RESERVE FUND.

19 (a) The charter district bond guarantee reserve fund is a special
20 fund in the state treasury outside the general revenue fund. The
21 following amounts shall be deposited in the fund:

22 (1) money due from a charter district as provided by
23 Subsection (b); and

24 (2) interest earned on balances in the fund.

25 (b) A charter district that has a bond guaranteed as
26 provided by this subchapter must annually remit to the
27 commissioner, for deposit in the charter district bond guarantee

reserve 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 amount due under this section shall be amortized and paid over the duration of the bond. Each payment is due on the anniversary of the date the bond was issued. The commissioner shall adopt rules to determine the total and annual amounts due under this section.

(c) The commissioner may 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.

(d) Each year, the commissioner shall:

(1) review the condition of the bond guarantee program and the amount that must be deposited in the charter district bond guarantee reserve fund from charter districts; and

(2) determine if charter districts should be required to submit a greater percentage of the savings resulting from the guarantee.

(e) The commissioner shall make recommendations to the legislature based on the review under Subsection (d).

SECTION 11. Section 45.058, Education Code, is amended to read as follows:

Sec. 45.058. NOTICE OF DEFAULT. Immediately following a determination that a school district or charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth day before maturity date, the school district or charter district shall notify the

commissioner.

SECTION 12. The heading to Section 45.059, Education Code, is amended to read as follows:

Sec. 45.059. PAYMENT OF SCHOOL DISTRICT BOND ON DEFAULT
[FROM PERMANENT SCHOOL FUND].

SECTION 13. Subsection (a), Section 45.059, Education Code, is amended to read as follows:

(a) Immediately following receipt of notice under Section 45.058 that a school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall 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 maturing or matured principal or interest.

SECTION 14. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0591 to read as follows:

Sec. 45.0591. PAYMENT OF CHARTER DISTRICT BOND ON DEFAULT.

(a) Immediately following receipt of notice under Section 45.058 that a charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the charter district bond guarantee reserve fund created under Section 45.0571 to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

(b) If money in the charter district bond guarantee reserve fund is insufficient to pay the amount due on a bond under Subsection (a), the commissioner shall instruct the comptroller to

1 transfer from the appropriate account in the permanent school fund
2 to the district's paying agent the amount necessary to pay the
3 balance of the unpaid maturing or matured principal or interest.

4 (c) Immediately following receipt of the funds for payment
5 of the principal or interest, the paying agent shall pay the amount
6 due and forward the canceled bond or coupon to the comptroller. The
7 comptroller shall hold the canceled bond or coupon on behalf of the
8 fund or funds from which payment was made.

9 (d) Following full reimbursement to the charter district
10 bond guarantee reserve fund and the permanent school fund, if
11 applicable, with interest, the comptroller shall further cancel the
12 bond or coupon and forward it to the charter district for which
13 payment was made.

14 SECTION 15. Section 45.060, Education Code, is amended to
15 read as follows:

16 Sec. 45.060. BONDS NOT ACCELERATED ON DEFAULT. If a school
17 district or charter district fails to pay principal or interest on a
18 guaranteed bond when it matures, other amounts not yet mature are
19 not accelerated and do not become due by virtue of the school
20 district's or charter district's default.

21 SECTION 16. The heading to Section 45.061, Education Code,
22 is amended to read as follows:

23 Sec. 45.061. REIMBURSEMENT OF FUNDS [~~PERMANENT SCHOOL~~
24 ~~FUND~~].

25 SECTION 17. Section 45.061, Education Code, is amended by
26 amending Subsections (a) and (b) and adding Subsection (a-1) to
27 read as follows:

(a) If the commissioner orders payment from the permanent school fund or the charter district bond guarantee reserve fund on behalf of a school district or charter district, the commissioner shall direct the comptroller to withhold the amount paid, plus interest, from the first state money payable to the school district or charter district. Except as provided by Subsection (a-1), the ~~[The]~~ amount withheld shall be deposited to the credit of the permanent school fund.

(a-1) After the permanent school fund has been reimbursed for all money paid from the fund as the result of a default of a charter district bond guaranteed under this subchapter, any remaining amounts withheld under Subsection (a) shall be deposited to the credit of the charter district bond guarantee reserve fund.

(b) In accordance with the rules of the board, the commissioner may authorize reimbursement to the permanent school fund or charter district bond guarantee reserve fund with interest in a manner other than that provided by this section.

SECTION 18. Section 45.062, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If a total of two or more payments are made under this subchapter on charter district bonds and the commissioner determines that the charter district is acting in bad faith under the guarantee program under this subchapter, the commissioner may 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.

SECTION 19. Subdivision (10), Section 53.02, Education Code, is amended to read as follows:

(10) "Authorized charter school" means an open-enrollment charter school that holds a charter granted under Subchapter D, Chapter 12, and includes an open-enrollment charter school designated as a charter district as provided by Section 12.135.

SECTION 20. Section 53.351, Education Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) Except as provided by Subsection (f-1), a [A] revenue bond issued under this section is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of these entities. A revenue bond is payable solely from the revenue of the authorized open-enrollment charter school on whose behalf the bond is issued. A revenue bond issued under this section must contain on its face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bond; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bond.

(f-1) Subsection (f) does not apply to a revenue bond issued under this section for a charter district if the bond is approved

1 for guarantee by the permanent school fund under Subchapter C,
2 Chapter 45.

3 SECTION 21. This Act applies only to a bond issued or
4 refunded on or after the effective date of this Act by an
5 open-enrollment charter school designated as a charter district
6 under Section 12.135, Education Code, as added by this Act. A bond
7 issued or refunded by an open-enrollment charter school before the
8 effective date of this Act is governed by the law in effect
9 immediately before that date, and that law is continued in effect
10 for that purpose.

11 SECTION 22. This Act takes effect September 1, 2011.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 597 (senate engrossed version) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 12.120, Education Code, is amended by adding Subsection (c) to read as follows:

(c) A person may not serve 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.

SECTION _____. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1201 to read as follows:

Sec. 12.1201. PROOF OF UNITED STATES CITIZENSHIP. (a) This section applies to:

(1) a person serving as a member of the governing body of:

(A) a charter holder; or

(B) an open-enrollment charter school; and

(2) an officer of an open-enrollment charter school who receives one of the five highest salaries paid by the charter school.

(b) A person to whom this section applies must submit to the agency proof of United States citizenship in the form of:

(1) a certified copy of the person's birth certificate;

(2) a United States passport;

1 (3) a certificate of naturalization; or
2 (4) any other form of proof prescribed by the
3 secretary of state.

4 82R28835 CAE-D

Hilderbran

5 COMMITTEE AMENDMENT NO. 2

6 Amend S.B. No. 597 (senate engrossed version) by adding the
7 following appropriately numbered SECTION to the bill and
8 renumbering subsequent SECTIONS accordingly:

9 SECTION _____. Subchapter D, Chapter 12, Education Code, is
10 amended by adding Section 12.1202 to read as follows:

11 Sec. 12.1202. INTERNET ACCESS TO INFORMATION REGARDING
12 GOVERNING BODY AND OFFICERS. (a) This section applies to:

13 (1) a person serving as a member of the governing body
14 of:

15 (A) a charter holder; or

16 (B) an open-enrollment charter school; and

17 (2) an officer of an open-enrollment charter school
18 who receives one of the five highest salaries paid by the charter
19 school.

20 (b) A charter holder or open-enrollment charter school
21 shall post on the Internet website of the charter holder or charter
22 school the name, title, and resume of each person to whom this
23 section applies.

24 82R28834 CAE-D

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25 COMMITTEE AMENDMENT NO. 3

26 Amend S.B. No. 597 (senate engrossed version) by adding the
27 following appropriately numbered SECTION to the bill and

renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1072 to read as follows:

Sec. 12.1072. INTERNET ACCESS TO CHECKING ACCOUNT TRANSACTIONS. Each open-enrollment charter school shall 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:

(1) the amount of the payment;

(2) the date of the payment;

(3) a brief description of the purpose of the payment;

and

(4) the name of the payee.

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