

- SUBJECT:** Limiting power of higher education authorities to buy and develop property
- COMMITTEE:** Financial Institutions — favorable, without amendment
- VOTE:** 6 ayes — Solomons, Flynn, Gutierrez, Hopson, Paxton, Wise  
0 nays  
1 absent — Christian
- SENATE VOTE:** On final passage, May 16 — 31-0
- WITNESSES:** *(On House companion bill, HB 3331:)*  
For — Charles Cryan, City of College Station; Carol McDonald, Independent Colleges and Universities of Texas, Inc.; Dr. Curtis P. Ramsey, Texas Schools' Tax Base Defense Coalition; Randy Sims, Brazos County; Rick Woolfolk, Denton Independent School District  
  
Against — Stewart Bul, JPI; Thomas Allen Moon, Texas Student Housing Corporation-Denton Project; Henry C. Smyth, Texas Student Housing
- BACKGROUND:** Education Code, ch. 53 allows cities to create a higher education authority (HEA) or a nonprofit corporation to issue tax-exempt bonds to acquire, construct, or improve educational or housing facilities for the benefit of institutions of higher education. The land acquired for those purposes need not be located within the limits of the city that created the HEA. The facilities, which may qualify for an ad valorem tax exemption, must be used exclusively for the benefit of students, faculty, and staff members of an accredited institution of higher education.
- DIGEST:** SB 1178 would amend Education Code, sec. 53.33 to eliminate an HEA's authority to purchase land. It would allow an HEA to acquire, own, hold title to, lease, or operate an educational or housing facility, or any incidental, subordinate, or related facility, only if:
- the facility was or would be located within the corporate limits of the city that created the HEA;

- the governing body of an institution requested the HEA to acquire and own the facility for the benefit of the higher education institution;
- the institution of higher education officially agreed to accept legal title to the facility before any bonds issued to acquire the facility were paid in full, and;
- the ownership of the facility was approved by official action of the governing body of the city that created the HEA, the school district, and county in which the facility would be located.

An HEA could contract with a private entity as long as these conditions were met. These changes in the law would not affect the acquisition, ownership, construction, or improvement of a facility before March 15, 2003.

SB 1778 would specify that an HEA could issue and execute revenue bonds or other obligations to loan or otherwise provide funds to a borrower if:

- the governing body of the borrower by official action requested the issuer of the bonds or other obligation;
- the purpose of the loan was to enable the borrower to acquire or improve educational or housing facilities; and
- under terms of the loan, the ownership of the facility was required to be at all times under the exclusive control and held for the exclusive benefit of the borrower.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

SB 1778 would close a loophole in the law that has deprived some Texas school districts of tax revenue when an HEA from another city buys land and builds student housing that is exempt from taxation.

HEAs were created to provide a mechanism to allow private higher education institutions to issue bonds to build educational facilities and student housing. In the past few years, however, two Texas municipalities, the City of Westlake and the City of Cameron, have created HEAs for the express purpose of buying land and developing student housing and other facilities in college towns such as Denton and Bryan-College Station. Because HEAs are

tax-exempt, school districts and other local entities face a significant erosion of tax revenue when property purchased by an HEA is removed from the tax rolls. Tax revenues for the Denton Independent School District dropped at least \$200,000 when Westlake's HEA purchased and developed property for student housing near the University of North Texas. Other school districts are concerned about experiencing similar losses at a time when state public education funding is dropping.

SB 1778 would preserve the original intent of the law while retaining local control over HEAs. HEAs still would have the authority to issue bonds and build facilities, but one community no longer would be allowed to take advantage of this law to drain resources from communities in other parts of the state.

**OPPONENTS  
SAY:**

SB 1778 would take away a financing mechanism that allows public higher education institutions to reduce costs by contracting with HEAs to purchase land and construct student housing. The City of Westlake has provided this service to higher education institutions as a way to fund college housing scholarships for students in communities adjoining Westlake. This program has benefitted public institutions as well as local students, and there is no need for a change in the law.

**NOTES:**

The House companion, HB 3331 by Crownover, et. al., was reported favorably from the Higher Education Committee on May 5.