

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1476
By: West, Royce
Subcommittee on Higher Education
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Committee Report (Substituted)

DIGEST AND PURPOSE

Nonprofit student loan corporations provide secondary market financing for guaranteed student loans to Texas residents and students attending college in Texas. The proceeds of bonds issued by these corporations are used to acquire student loan notes from originating lenders. The bonds are payable solely from the repayment and guarantee obligations of the student loans, with no state or local government obligation or liability.

In 1996, the Internal Revenue Code was changed to allow a nonprofit student loan corporation to broaden its purposes to encompass a charitable activity allowed for other nonprofit entities, and to eliminate the requirement that net assets be transferred to the federal government on dissolution of the nonprofit corporation. Certain steps must be taken by a nonprofit corporation to change its tax status and broaden its charitable activities. No state law exists to allow a nonprofit student loan corporation to take advantage of the 1996 tax law changes.

C.S.S.B. 1476 amends the Education Code to authorize the creation of nonprofit corporations for the limited purpose of refunding outstanding tax-exempt bonds and to allow the nonprofit corporations to obtain, along with other student loan issuers, a portion of the state's tax-exempt bond volume.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that if this Act takes effect before September 1, 2003, Section 53.47(a)(6), Education Code, is amended to provide that "qualified nonprofit corporation" includes a nonprofit corporation that issues bonds the proceeds of which are used to refund bonds issued on or after January 1, 1990, and before January 1, 2001, that qualified as student loan bonds under Section 144(b), Internal Revenue Code of 1986, as amended.

SECTION 2. Provides that if this Act takes effect on September 1, 2003, Section 53.47(a), Education Code, is amended by adding Subdivision (6), to define "qualified nonprofit corporation."

SECTION 3. Amends Section 53.47(k), Education Code, to authorize the governing body of a city, by ordinance or resolution, to authorize the incorporation of a nonprofit corporation under this chapter to act on behalf of the city as its duly constituted instrumentality to exercise the powers provided by this subsection. Provides that on approval by the city, the nonprofit corporation is authorized to issue revenue bonds and to loan the proceeds of the bonds to an entity that has assumed the outstanding bond obligations of a nonprofit corporation if the loan is for the limited purpose of refunding such outstanding bonds. Provides that in issuing the bonds, the nonprofit corporation is considered to be acting on behalf of the city that created the corporation. Requires the bonds to be refunded to have been originally issued as qualified scholarship funding bonds as that term is defined in Section 150(d)(2), Internal Revenue Code of 1986, as amended, by a nonprofit corporation while acting under

Subsection (f) and that subsequently made the election permitted under Section 150(d)(3) of the Internal Revenue Code, as amended; provided, however, any entity whose bonds are refunded under the provisions hereof that proposes to issue stock or other evidence of ownership with respect to such entity is required to provide prior notice of such proposed action to the Texas Attorney General in sufficient time to permit a full review of such proposed issuance and the terms thereof. Requires any refunding bonds to be solely the obligation of the nonprofit corporation and not to constitute a debt or obligation of the city. Requires the ordinance or resolution of the city authorizing the incorporation of the corporation to approve the articles of incorporation and any amendments to the articles of incorporation. Requires, on dissolution of the corporation, all property owned by the corporation to become the property of the city. Authorizes a corporation to be incorporated under this subsection by filing the articles of incorporation with the secretary of state in the manner prescribed for the incorporation of nonprofit corporations under the Texas Non-Profit Corporations Act (Art. 1396-1.01 et seq, V.T.C.S.). Requires the secretary of state, on filing of the articles of incorporation, to issue a certificate showing that the corporation is incorporated under this chapter. Provides that, except to the extent provided by this section, Sections 53.131 (Authority's Earnings), 53.14 (Board of Directors), 53.15 (Organization of Board; Quorum; Employees; Counsel), 53.31 (No Taxing Power), 53.32 (No Power of Eminent Domain), 53.35(a) (relating to bond issuance) and 53.39 (Refunding Bonds) apply to and govern the corporation, its procedures, and bonds. Provides that the corporation, in addition to the specific powers granted under this subsection, has all powers granted under the Texas Non-profit Corporation Act that are necessary, incidental, or subordinate to enable the corporation to carry out the purposes of this subsection. Deletes text regarding the expiration of Subsection (a)(6) and the definition of "qualified nonprofit corporation."

SECTION 4. Effective date: upon passage or September 1, 2003.