

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT

CHAPTER 45. SCHOOL DISTRICT FUNDS

SUBCHAPTER A. TAX BONDS AND MAINTENANCE TAXES

Sec. 45.001. BONDS AND BOND TAXES. (a) The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may:

(1) issue bonds for:

(A) the construction, acquisition, and equipment of school buildings in the district;

(B) the acquisition of property or the refinancing of property financed under a contract entered under Subchapter A, Chapter 271, Local Government Code, regardless of whether payment obligations under the contract are due in the current year or a future year;

(C) the purchase of the necessary sites for school buildings; and

(D) the purchase of new school buses; and

(2) may levy, pledge, assess, and collect annual ad valorem taxes sufficient to pay the principal of and interest on the bonds as or before the principal and interest become due, subject to Section 45.003.

(b) The bonds must mature serially or otherwise not more than 40 years from their date. The bonds may be made redeemable before maturity.

(c) Bonds may be sold at public or private sale as determined by the governing board of the district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 1536, Sec. 1, eff. June 19,

1999; Acts 2001, 77th Leg., ch. 1500, Sec. 1, eff. June 17, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1240 (S.B. 2274), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 87(b), eff. June 19, 2009.

Sec. 45.0011. CREDIT AGREEMENTS IN CERTAIN SCHOOL DISTRICTS. (a) This section applies only to an independent school district that, at the time of the issuance of obligations and execution of credit agreements under this section, has:

(1) at least 2,000 students in average daily attendance; or

(2) a combined aggregate principal amount of at least \$50 million of outstanding bonds and voted but unissued bonds.

(b) A district to which this section applies may, in the issuance of bonds as provided by Sections 45.001 and 45.003(b)(1), exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and execution of credit agreements under Chapter 1371, Government Code.

(c) A proposition to issue bonds to which this section applies must, in addition to meeting the requirements of Section 45.003(b)(1), include the question of whether the governing board or commissioners court may levy, pledge, assess, and collect annual ad valorem taxes, on all taxable property in the district, sufficient, without limit as to rate or amount, to pay the principal of and interest on the bonds and the costs of any credit agreements executed in connection with the bonds.

(d) A district may not issue bonds to which this section applies in an amount greater than the greater of:

(1) 25 percent of the sum of:

(A) the aggregate principal amount of all district debt payable from ad valorem taxes that is outstanding at the time the bonds are issued; and

(B) the aggregate principal amount of all bonds payable from ad valorem taxes that have been authorized but not issued;

(2) \$25 million, in a district that has at least 3,500 but not more than 15,000 students in average daily attendance; or

(3) \$50 million, in a district that has more than 15,000 students in average daily attendance.

(e) In this section, average daily attendance is determined in the manner provided by Section 42.005.

(f) Sections 1371.057 and 1371.059, Government Code, govern approval by the attorney general of obligations issued under the authority of this section.

Added by Acts 1999, 76th Leg., ch. 1536, Sec. 2, eff. June 19, 1999.  
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.207, eff. Sept. 1, 2001.

Sec. 45.002. MAINTENANCE TAXES. The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools in the district, subject to Section 45.003.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.003. BOND AND TAX ELECTIONS. (a) Bonds described by Section 45.001 may not be issued and taxes described by Section 45.001 or 45.002 may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election held for that purpose, at the expense of the district, in accordance with the Election Code, except as provided by this section. Each election must be called by resolution or order of the governing board or commissioners court. The resolution or order must state the date of the election, the proposition or propositions to be submitted and voted on, the polling place or places, and any other matters considered necessary or advisable by the governing board or commissioners court.

(b) A proposition submitted to authorize the issuance of bonds must include the question of whether the governing board or commissioners court may levy, pledge, assess, and collect annual ad

valorem taxes, on all taxable property in the district, either:

(1) sufficient, without limit as to rate or amount, to pay the principal of and interest on the bonds; or

(2) sufficient to pay the principal of and interest on the bonds, provided that the annual aggregate bond taxes in the district may never be more than the rate stated in the proposition.

(c) If bonds are ever voted in a district pursuant to Subsection (b)(1), then all bonds thereafter proposed must be submitted pursuant to that subsection, and Subsection (b)(2) does not apply to the district.

(d) A proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition. For any year, the maintenance tax rate per \$100 of taxable value adopted by the district may not exceed the rate equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Section [42.2516](#), multiplied by \$1.50.

(e) A rate that exceeds the maximum rate specified by Subsection (d) for the year in which the tax is to be imposed is void. A school district with a tax rate that is void under this subsection may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the maximum rate specified by Subsection (d) for that year.

(f) Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than \$1.50 per \$100 of taxable value in the district as permitted by special law may not levy a maintenance tax at a rate that exceeds the rate per \$100 of taxable value that is equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Section [42.2516](#), multiplied by the rate of the maintenance tax levied by the district for the 2005 tax year.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1071, Sec. 22, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 678, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.12, eff. May 31, 2006.

Sec. 45.0031. LIMITATION ON ISSUANCE OF TAX-SUPPORTED BONDS. (a) Before issuing bonds described by Section 45.001, a school district must demonstrate to the attorney general under Subsection (b) or (c) that, with respect to the proposed issuance, the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation.

(b) A district may demonstrate the ability to comply with Subsection (a) by using the most recent taxable value of property in the district, combined with state assistance to which the district is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.

(c) A district may demonstrate the ability to comply with Subsection (a) by using a projected future taxable value of property in the district anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the district is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds. The district must submit to the attorney general a certification of the district's projected taxable value of property that is prepared by a registered professional appraiser certified under Chapter 1151, Occupations Code, who has demonstrated professional experience in projecting taxable values of property or who can by contract obtain any necessary assistance from a person who has that experience. To demonstrate the professional experience required by this subsection, a registered professional appraiser must provide to the district written documentation relating to two previous projects for which the appraiser projected taxable values of property. Until the bonds submitted to the attorney general are approved or disapproved, the

district must maintain the documentation and on request provide the documentation to the attorney general or comptroller. The certification of the district's projected taxable value of property must be signed by the district's superintendent. The attorney general must base a determination of whether the district has complied with Subsection (a) on a taxable value of property that is equal to 90 percent of the value certified under this subsection.

(d) A district that demonstrates to the attorney general that the district's ability to comply with Subsection (a) is contingent on receiving state assistance may not adopt a tax rate for a year for purposes of paying the principal of and interest on the bonds unless the district credits to the account of the interest and sinking fund of the bonds the amount of state assistance equal to the amount needed to demonstrate compliance and received or to be received in that year.

(e) If a district demonstrates to the attorney general the district's ability to comply with Subsection (a) using a projected future taxable value of property under Subsection (c) and subsequently imposes a tax to pay the principal of and interest on bonds to which Subsection (a) applies at a rate that exceeds the limit imposed by Subsection (a), the attorney general may not approve a subsequent issuance of bonds unless the attorney general finds that the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds to which Subsection (a) applies from a tax at a rate not to exceed \$0.45 per \$100 of valuation.

Added by Acts 2001, 77th Leg., ch. 678, Sec. 1, eff. Sept. 1, 2001.  
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.762, eff. Sept. 1, 2003.

Sec. 45.004. REFUNDING BONDS. (a) In this section:

(1) "Bond" includes a note or other evidence of indebtedness.

(2) "Total debt service" means the amount of principal and unpaid interest on a bond to final maturity.

(b) Each governing board or commissioners court described by Section [45.001](#) may refund or refinance all or any part of any of

the district's outstanding bonds and matured or unmatured but unpaid interest on those bonds payable from ad valorem taxes by issuing refunding bonds payable from ad valorem taxes.

(c) A series or issue of refunding bonds may not be issued unless:

(1) the total debt service on the refunding bonds will amount to less than the total debt service on the bonds being refunded;

(2) if a maximum interest rate was voted for the bonds being refunded, the refunding bonds do not bear interest at a rate higher than that maximum rate; and

(3) the refunding bonds are payable from taxes of the same nature as those pledged to the payment of the obligations being refunded.

(d) Refunding bonds may be made redeemable before maturity.

(e) The refunding bonds may be:

(1) issued and delivered in lieu of, and on surrender to the comptroller and cancellation of, the obligations being refunded, and the comptroller shall register the refunding bonds and deliver them in accordance with the resolution or order authorizing the refunding bonds; or

(2) sold for cash in any principal amounts necessary to provide all or any part of the money required to:

(A) pay the principal of any bonds being refunded and the interest to accrue on the bonds to maturity; or

(B) redeem any bonds being refunded before maturity, including principal, any required redemption premium, and the interest to accrue on the bonds to the redemption date.

(f) The refunding may be accomplished in one or in several installment deliveries. Refunding bonds also may be issued and delivered in accordance with any other applicable law.

(g) To refund bonds or to pay or redeem bonds in whole or in part without issuing refunding bonds, the governing board or commissioners court may deposit directly with the paying agent the proceeds from the sale of refunding bonds or any other available funds or resources. The deposit must be in an amount sufficient, after taking into account both the principal and interest to accrue

on the assets of any escrow account created under Subsection (h), to provide for the payment or redemption of the bonds and assumed obligations that are to be refunded or to be paid or redeemed. The deposit constitutes the making of firm banking and financial arrangements for the discharge and final payment or redemption of the bonds being refunded.

(h) The governing board or commissioners court may enter into an escrow or a similar agreement with the paying agent with respect to the safekeeping, investment, reinvestment, administration, or disposition of the deposits, but the deposits may be invested and reinvested only in direct obligations of the United States, including obligations the principal of and interest on which are unconditionally guaranteed by the United States and that mature or bear interest payable at times and in amounts sufficient to provide for the scheduled payment or redemption of the bonds. The governing board or commissioners court shall enter into an appropriate escrow or a similar agreement if any of the bonds are scheduled to be paid or redeemed on a date later than the next succeeding scheduled interest payment date.

(i) If the governing body or commissioners court has entered into an escrow or a similar agreement under Subsection (h), the refunded bonds are considered to be defeased and may not be included in or considered to be an indebtedness of the district for the purpose of a limitation on outstanding indebtedness or taxation or for any other purpose.

(j) Refunding bonds may be issued under this section to refund any bonds that are scheduled to mature or that are subject to redemption before maturity, not more than 20 years from the date of the refunding bonds. The refunding bonds may be sold at public or private sale under the procedures, at the price, and on the terms determined by the governing board or commissioners court. In addition, the bonds may be sold bearing interest at the rate determined by the governing board or commissioners court, but not to exceed the maximum rate prescribed by Chapter 1204, Government Code. The governing board or commissioners court may pledge to the payment of any refunding bonds any surplus income to be available from the investment or reinvestment of any deposit made as



authorized by this section or any other available revenues, income, or resources.

(k) The refunding bonds may be issued in an additional amount sufficient to pay the costs and expenses of issuing the bonds and sufficient to fund any debt service reserve, contingency, or other similar fund considered necessary or advisable by the governing board or commissioners court.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.  
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.208, eff. Sept. 1, 2001.

Sec. 45.005. EXAMINATION OF BONDS BY ATTORNEY GENERAL. All bonds issued pursuant to this subchapter, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general for examination.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.006. MAINTENANCE TAX REQUIRED FOR JUDGMENT ORDERING AD VALOREM TAX REFUND; BONDS. (a) This section applies only to a school district that:

(1) has an average daily attendance of less than 10,000; and

(2) is located in whole or part in a municipality with a population of less than 25,000 that is located in a county with a population of 200,000 or more bordering another county with a population of 2.8 million or more.

(b) Notwithstanding Section 45.003, a school district may levy, assess, and collect maintenance taxes at a rate that exceeds \$1.50 per \$100 valuation of taxable property if:

(1) additional ad valorem taxes are necessary to pay a debt of the district that:

(A) resulted from the rendition of a judgment against the district before May 1, 1995;

(B) is greater than \$5 million;

(C) decreases a property owner's ad valorem tax liability;

(D) requires the district to refund to the

property owner the difference between the amount of taxes paid by the property owner and the amount of taxes for which the property owner is liable; and

(E) is payable according to the judgment in more than one of the district's fiscal years; and

(2) the additional taxes are approved by the voters of the district at an election held for that purpose.

(c) Except as provided by Subsection (e), any additional maintenance taxes that the district collects under this section may be used only to pay the district's debt under Subsection (b)(1).

(d) Except as provided by Subsection (e), the authority of a school district to levy the additional ad valorem taxes under this section expires when the judgment against the district is paid.

(e) The governing body of a school district shall pay the district's debt under Subsection (b)(1) in a lump sum. To satisfy the district's debt under Subsection (b)(1), the governing body may levy and collect additional maintenance taxes as provided by Subsection (b) and may issue bonds. If bonds are issued:

(1) the district may use any additional maintenance taxes collected by the district under this section to pay debt service on the bonds; and

(2) the authority of the district to levy the additional ad valorem taxes expires when the bonds are paid in full or the judgment is paid, whichever occurs later.

(f) The governing body of a school district that adopts a tax rate that exceeds \$1.50 per \$100 valuation of taxable property may set the amount of the exemption from taxation authorized by Section 11.13(n), Tax Code, at any time before the date the governing body adopts the district's tax rate for the tax year in which the election approving the additional taxes is held.

(g) The authority to issue bonds granted by this section expires June 1, 1996.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

#### SUBCHAPTER B. REVENUE BONDS

Sec. 45.031. GYMNASIA, STADIA, AND OTHER RECREATIONAL

FACILITIES. The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may acquire, construct, improve, equip, operate, and maintain gymnasias, stadia, or other recreational facilities for and on behalf of its district. The facilities may be located inside or outside of the district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.032. REVENUE BONDS. To provide funds to acquire, construct, improve, or equip gymnasias, stadia, or other recreational facilities, the board, city council or commission, or commissioners court may issue revenue bonds payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, or other revenues from any or all of the facilities, in the manner provided by this subchapter. The bonds may be additionally secured by mortgages and deeds of trust on any real property on which any of the facilities are or will be located, or any real or personal property incident or appurtenant to the facilities, and the board, city council or commission, or commissioners court may authorize the execution and delivery of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence those liens. The bonds may be issued to mature serially or otherwise not to exceed 50 years from their date. In the authorization of any of those bonds, the board, city council or commission, or commissioners court may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other types of bonds, under the terms set forth in the resolution or order authorizing the issuance of the bonds, all within the discretion of the board, city council or commission, or commissioners court. The bonds may be made redeemable before maturity. The bonds may be sold in the manner, at the price, and under the terms provided by the board, city council or commission, or commissioners court in the resolution or order authorizing the issuance of the bonds. If permitted by the bond resolution or

order, any required part of the proceeds from the sale of the bonds may be:

(1) used for paying interest on the bonds during the period of the construction of any facilities to be provided through the issuance of the bonds;

(2) used for paying the operation and maintenance expenses of facilities to the extent and for the period specified in the bond resolution;

(3) used for creating reserves for the payment of the principal of and interest on the bonds; or

(4) invested, until needed, to the extent and in the manner provided in the bond resolution or order.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.033. RENTALS, RATES, AND CHARGES. The board, city council or commission, or commissioners court may set and collect rentals, rates, and charges from students and others for the occupancy or use of any of the facilities, in the amounts and manner determined by the board, city council or commission, or commissioners court.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.034. PLEDGE OF REVENUES. The board, city council or commission, or commissioners court may pledge all or any part of any of its revenues from the facilities to the payment of any bonds issued under this subchapter, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. If revenues from the facilities are pledged to the payment of bonds, the rentals, rates and charges for the occupancy or use of the facilities must be fixed and collected in amounts at least sufficient to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the resolution or order authorizing the issuance of the bonds, to provide for the payment of operation, maintenance, and other expenses.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.035. REFUNDING BONDS. Revenue bonds issued by a board, city council or commission, or commissioners court under this subchapter and revenue bonds issued by a board, city council or commission, or commissioners court under other law and payable from revenues from facilities described by Section [45.031](#) may be refunded or otherwise refinanced by the board, city council or commission, or commissioners court, and in that case all appropriate provisions of this subchapter apply to the refunding bonds. In refunding or otherwise refinancing any such bonds, the board, city council or commission, or commissioners court may, in the same authorizing proceedings, refund or refinance bonds issued pursuant to this code and bonds issued pursuant to any other law, may combine all refunding bonds and any other additional new bonds to be issued under this chapter into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other type of bonds. All refunding bonds must be issued and delivered under the terms set forth in the authorizing proceedings.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.036. EXAMINATION OF BONDS BY ATTORNEY GENERAL. All bonds issued pursuant to this subchapter, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general for examination.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

#### SUBCHAPTER C. GUARANTEED BONDS

Sec. 45.051. DEFINITIONS. In this subchapter:

(1) "Board" means the State Board of Education.

(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.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.02, eff. September 28, 2011.

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 and refinanced 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.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 68, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.03, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 280 (H.B. 885), Sec. 2, eff. September 1, 2013.

Sec. 45.053. LIMITATION; VALUE ESTIMATES. (a) Except as provided by Subsection (d), the commissioner may not approve bonds for guarantee under this subchapter if the approval would result in the total amount of outstanding guaranteed bonds under this subchapter exceeding an amount equal to 2-1/2 times the cost value of the permanent school fund, as estimated by the board and certified by the state auditor.

(b) Each year, the state auditor shall analyze the status of guaranteed bonds under this subchapter as compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the amount of bonds guaranteed under this subchapter is within the limit prescribed by this section.

(c) The commissioner shall prepare and the board shall adopt

an annual report on the status of the guaranteed bond program under this subchapter.

(d) The board by rule may increase the limit prescribed by Subsection (a) to an amount not to exceed five times the cost value of the permanent school fund, provided that the increased limit is consistent with federal law and regulations and does not prevent the bonds to be guaranteed from receiving the highest available credit rating, as determined by the board. The board shall at least annually consider whether to change any limit in accordance with this subsection. This subsection may not be construed in a manner that impairs, limits, or removes the guarantee of bonds that have been approved by the commissioner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2003, 78th Leg., ch. 89, Sec. 1, eff. May 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 139 (S.B. 389), Sec. 1, eff. May 18, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 68A, eff. September 1, 2009.

Sec. 45.0531. ADDITIONAL LIMITATION: RESERVATION OF PERCENTAGE OF PERMANENT SCHOOL FUND VALUE. (a) In addition to the limitation on the approval of bonds for guarantee under Section 45.053, the board by rule may establish a percentage of the cost value of the permanent school fund to be reserved from use in guaranteeing bonds under this subchapter.

(b) If the board has reserved a portion of the permanent school fund under Subsection (a), each year, the state auditor shall analyze the status of the reserved portion compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the portion of the permanent school fund reserved from use in guaranteeing bonds under this subchapter satisfies the reserve percentage established.

(c) If the board has reserved a portion of the permanent school fund under Subsection (a), the board shall at least annually consider whether to change the reserve percentage established to ensure that the reserve percentage allows compliance with federal

law and regulations and serves to enable bonds guaranteed under this subchapter to receive the highest available credit rating, as determined by the board.

(d) This section may not be construed in a manner that impairs, limits, or removes the guarantee of bonds that have been approved by the commissioner.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 69, eff. September 1, 2009.

For expiration of Subsections (b-1), (b-2), (b-3), and (b-4), see Subsection (b-4).

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 charter capacity of the guaranteed bond program.

(a-1) The commissioner may not approve charter district refunding or refinanced bonds for guarantee under this subchapter in a total amount that exceeds one-half of the charter capacity.

(b) For purposes of this section, the charter capacity of the guaranteed bond program is the percentage of the total capacity of the guaranteed bond program established by the board under Sections 45.053(d) and 45.0531 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. 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).

(b-1) The charter capacity provided by Subsection (b) applies beginning with the state fiscal year that begins September 1, 2021. Subject to Subsections (b-2) and (b-3), the board shall 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 the following amount:

(1) for the state fiscal year that begins September 1,



2017, 20 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017;

(2) for the state fiscal year that begins September 1, 2018, 40 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017;

(3) for the state fiscal year that begins September 1, 2019, 60 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017; and

(4) for the state fiscal year that begins September 1, 2020, 80 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017.

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

(1) the board 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) If the board makes a determination described by Subsection (b-2) for any year and modifies the schedule provided by Subsection (b-1) for that year, the board may also make appropriate adjustments to the schedule for subsequent years to reflect the modification, provided that the charter capacity for any year may not exceed the limit provided for that year by the schedule.

(b-4) Subsections (b-1), (b-2), and (b-3) and this

subsection expire September 1, 2022.

(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.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.04, eff. September 28, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 280 (H.B. 885), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 402 (S.B. 1480), Sec. 1, eff. September 1, 2017.

Sec. 45.0533. COMMUNICATION WITH NATIONALLY RECOGNIZED INVESTMENT RATING FIRM. Information obtained from a nationally recognized investment rating firm relating to Section 45.053, 45.0531, or 45.0532 that concerns a hypothetical or actual scenario relating to the credit rating of the permanent school fund or the bond guarantee program of the permanent school fund, and any communications from, or information generated by, the agency, the board, the commissioner, or their employees relating to that information, is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 402 (S.B. 1480), Sec. 2, eff. September 1, 2017.

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.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.209, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.05, eff. September 28, 2011.

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

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

(2) be issued under Chapter 53.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.06, eff. September 28, 2011.

Sec. 45.055. APPLICATION FOR GUARANTEE. (a) A school district or charter district seeking guarantee of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a school district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for guarantee under this subchapter and then, if that guarantee is rejected, for credit enhancement under Subchapter I.

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

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

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

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

(c) An application under Subsection (a) must be accompanied by a fee set by rule of the board in an amount designed to cover the

costs of administering the programs to provide the guarantee or credit enhancement of eligible bonds.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 70, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.07, eff. September 28, 2011.

Sec. 45.056. INVESTIGATION. (a) Following receipt of an application for the guarantee of bonds, the commissioner shall conduct an investigation of the applicant school district or charter district in regard to:

- (1) the status of the district's accreditation; and
- (2) the total amount of outstanding guaranteed bonds.

(a-1) For purposes of this subsection, "bond security documents" include the resolution, trust agreement, indenture, ordinance, loan agreement, deed of trust, bond, note, and any additional document executed in connection with the issuance of a charter district bond for which a guarantee is requested under this subchapter. The commissioner's investigation of an application submitted by a charter district may 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. The commissioner may decline to approve the application if the commissioner determines that sufficient security is not provided.

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

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 71, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.08, eff. September 28, 2011.

Acts 2017, 85th Leg., R.S., Ch. 402 (S.B. 1480), Sec. 3, eff. September 1, 2017.

For expiration of this section, see Subsection (b).

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

(1) whether the charter district had an average daily attendance of more than 75 percent of its student capacity for each of the preceding three school years, or for each school year of operation if the charter district has not been in operation for the preceding three school years;

(2) the performance of the charter district under Sections 39.053 and 39.054; and

(3) any other indicator of performance that could affect the charter district's financial performance.

(b) This section expires September 1, 2019.

Added by Acts 2017, 85th Leg., R.S., Ch. 402 (S.B. 1480), Sec. 4, eff. September 1, 2017.

Sec. 45.057. GUARANTEE ENDORSEMENT. (a) The commissioner shall endorse bonds approved for guarantee with:

(1) the commissioner's signature or a facsimile of the commissioner's signature; and

(2) a statement relating the constitutional and statutory authority for the guarantee.

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

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.09, eff. September 28, 2011.

Sec. 45.0571. CHARTER DISTRICT BOND GUARANTEE RESERVE FUND.

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

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

(2) interest earned on balances in the fund.

(a-1) Notwithstanding Chapter 404, Government Code, the charter district bond guarantee reserve fund is managed by the board in the same manner that the permanent school fund is managed by the board. The board may invest money in the charter district bond guarantee reserve fund in accordance with the investment standard described by Section 404.024(j), Government Code, and the board's investment is not subject to any other limitation or requirement provided by Section 404.024, Government Code.

(a-2) The board shall 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) Subject to Subsection (c), a charter district that has a bond guaranteed as provided by this subchapter must remit to the commissioner, for deposit in the charter district bond guarantee reserve fund, an amount equal to 20 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 paid on receipt by the charter district of the bond proceeds. The commissioner shall adopt rules to determine the amount due under this section.

(c) 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.

(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).

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.10, eff. September 28, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 402 (S.B. 1480), Sec. 5, eff. September 1, 2017.

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.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.11, eff. September 28, 2011.

Sec. 45.059. PAYMENT OF SCHOOL DISTRICT BOND ON DEFAULT.

(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.

(b) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount

due and forward the canceled bond or coupon to the comptroller. The comptroller shall hold the canceled bond or coupon on behalf of the permanent school fund.

(c) Following full reimbursement to the permanent school fund with interest, the comptroller shall further cancel the bond or coupon and forward it to the school district for which payment was made.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.  
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 5.07, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.12, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.13, eff. September 28, 2011.

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 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.

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

(d) Following full reimbursement to the charter district bond guarantee reserve fund and the permanent school fund, if



applicable, with interest, the comptroller shall further cancel the bond or coupon and forward it to the charter district for which payment was made.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.14, eff. September 28, 2011.

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

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.15, eff. September 28, 2011.

Sec. 45.061. REIMBURSEMENT OF FUNDS. (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 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.

(c) The commissioner may order a school district to set an ad valorem tax rate capable of producing an amount of revenue sufficient to enable the district to:

(1) provide reimbursement under this section; and

(2) pay the principal of and interest on district bonds as the principal and interest become due.

(d) If a school district fails to comply with the commissioner's order under Subsection (c), the commissioner may impose any sanction on the district authorized to be imposed on a district under Subchapter G, Chapter 39, including appointment of a board of managers or annexation to another district, regardless of the district's accreditation status or the duration of a particular accreditation status.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 72, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.16, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.17, eff. September 28, 2011.

Sec. 45.062. REPEATED DEFAULTS. (a) If a total of two or more payments are made under this subchapter or Subchapter I on the bonds of a school district and the commissioner determines that the school district is acting in bad faith under the guarantee program under this subchapter or the credit enhancement program under Subchapter I, the commissioner may request the attorney general to institute appropriate legal action to compel the school district and its officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

(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.

(b) Jurisdiction of proceedings under this section is in

district court in Travis County.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 73, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 59.18, eff. September 28, 2011.

Sec. 45.063. RULES. The board may adopt rules necessary for the administration of the bond guarantee program.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

#### SUBCHAPTER D. SALE OF SURPLUS REAL PROPERTY; REVENUE BONDS

Sec. 45.081. DEFINITIONS. In this subchapter:

- (a) "District" means an independent school district.
- (b) "Board" means the governing body of a district.
- (c) "Real property" means any interest in land, buildings, or fixtures permanently attached to buildings or land.
- (d) "Bonds" includes notes, contracts, and any other evidences of an obligation to pay a sum of money.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.082. SALE OF PROPERTY; REVENUE BONDS. (a) The board of a district may sell real property owned by the district and issue revenue bonds payable from the proceeds of the sale subject to this section.

(b) The board must determine by order that the real property is not required for the current needs of the district for educational purposes, and the proceeds from the sale are required and will be used for:

- (1) constructing or equipping school buildings in the district or purchasing necessary sites for school buildings; or
- (2) paying the principal of and interest and premium on any bonds issued pursuant to this subchapter.

(c) The board is not required to comply with this section if the sale is:

(1) to a corporation established by the district under Chapter 303, Local Government Code; and

(2) subject to a lease-purchase agreement under which the district will acquire the real property.

(d) The real property may be sold for the price and on the terms determined by order of the board to be most advantageous to the district. The sale may be made pursuant to an installment sale agreement or contract or any other method. The sale must be for cash and all payments for the real property must be scheduled to be paid not more than 10 years after the date of execution of the agreement or contract of sale. Real property may not be sold for less than an aggregate price equal to its fair market value as determined by an appraisal obtained by the district not more than 180 days before the publication of the notice required by Subsection (e)(3). The appraisal is conclusive of the fair market value of the property for purposes of this subchapter.

(e) Before selling or executing any agreement or contract for the sale of the real property, the board shall:

(1) determine which real estate is proposed to be sold;

(2) determine the scope of the terms on which it will consider selling the real property, and, if the sale price is to be paid in installments, require the purchasers of the real property to secure the payment of the sale price by escrowing collateral acceptable to the board such as a letter of credit, United States government bonds, or any other generally recognized form of guarantee or security;

(3) publish a notice to prospective purchasers at least two weeks before the date set for receiving proposals in a real estate journal and in at least two newspapers of general circulation in the district, requesting sealed written proposals from prospective purchasers to purchase the real property and including the scope of the terms of sale that will be considered, and the time, date, and place where the proposals will be received; and

(4) determine by order of the board which sealed written proposal is most advantageous to the district, and accept

that proposal, or reject all proposals if considered advisable.

(f) Except as provided by this subsection, the sale must have been previously approved by a majority of the qualified voters of the district voting at an election held in the district at which a proposition to ascertain approval is submitted. An election is not required if the board determines by order that the proceeds from the sale of the real property are required and will be used for constructing or equipping or for paying the principal of, and interest and premium, if any, on bonds issued pursuant to this subchapter for the purpose of constructing or equipping a school building that is to be constructed pursuant to an order or judgment entered by a United States District Judge in any action or cause in which the district is a party.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.210, eff. Sept. 1, 2001.

Sec. 45.083. OTHER LAWS NOT APPLICABLE. Section 272.001, Local Government Code, Chapter 26, Parks and Wildlife Code, and all other general laws pertaining to the sale of public property do not apply to sales of real property pursuant to this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.084. CONTRACTS. The district may execute contracts for constructing or equipping school buildings in the district or for purchasing any necessary sites for school buildings in the manner provided by law. If any contract recites that payments under the contract are to be made either from the proceeds from the sale of real property under an installment sale agreement or any similar method pursuant to this subchapter or from proceeds from the sale of bonds issued pursuant to this subchapter, then the contract may be made payable in installments to correspond with the receipt by the district either of proceeds under the sale agreement or proceeds from the sale of any bonds to be issued and delivered in more than one issue, series, or installment, and the contract is not a prohibited debt or indebtedness of the district if the payments under the contract are required to be made solely from the proceeds

from the sale of real property or the bonds.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.085. BOND REQUIREMENTS. (a) In addition to the powers granted by this subchapter, any board, for and on behalf of its district, may issue, sell, and deliver revenue bonds of its district from time to time and in one or more issues, series, or installments, with the principal of and interest and premium, if any, on the bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenue, income, payments, or receipts derived by the district from the sale of real property pursuant to this subchapter, and those amounts may be pledged by the district to the payment of the principal of and interest and premium, if any, on such bonds, subject to this section.

(b) Bonds must be issued by an order of the board.

(c) The bonds must be issued for the purpose of constructing or equipping school buildings in the district or purchasing necessary sites for school buildings.

(d) The bonds shall mature, come due, or be payable serially, in installments, or otherwise, within not to exceed 90 days after the last date on which the final payment is due to the district from the sale of the real property. The bond order may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms set forth in the bond order.

(e) The bonds may be executed, made redeemable before maturity or due date, and be issued in the form, denominations, and manner and under the terms provided in the bond order. The bonds may be sold in the manner, at the price, and under the terms and may bear interest at the rates provided in the bond order.

(f) If so provided in any bond order, the proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of constructing or equipping any school buildings to be provided through the issuance of the bonds or for creating a reserve fund for the payment of principal and interest on the bonds. The proceeds may be placed on time deposit, in certificates of deposit, or invested, until needed, to the extent and in the manner provided in any bond order. The proceeds also may be used for

paying the costs and expenses of issuing the bonds and selling the real property.

(g) The bonds may be payable only from the revenues described by Subsection (a) and may not be payable or paid from any taxes levied and collected in the district.

(h) Chapter 1201, Chapter 1204, and Subchapters A-C, Chapter 1207, Government Code, apply to bonds issued pursuant to this subchapter.

(i) If bonds are issued pursuant to this subchapter, the bonds, along with the appropriate proceedings authorizing their issuance, and the sale agreement the proceeds from which they are payable shall be submitted to the attorney general for examination. If after the initial issuance of any bonds under this subchapter payable from the proceeds of a particular sale agreement, one or more subsequent issues, series, or installments of bonds are issued as additional parity bonds, on a parity with the initial bonds and payable from the proceeds of that sale agreement, then, at the option of the board, the subsequent issues, series, or installments of bonds need not be submitted to the attorney general or approved by the attorney general or registered by the comptroller, and the subsequent bonds are, on delivery of and payment for the bonds, valid and incontestable in the same manner and with the same effect as if they had been approved by the attorney general and registered by the comptroller as were the initial bonds.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.211, eff. Sept. 1, 2001.

Sec. 45.086. LIBERAL CONSTRUCTION. This subchapter shall be construed liberally to accomplish the legislative intent and the purposes of the subchapter, and all powers granted by this subchapter shall be broadly interpreted to accomplish that intent and those purposes and not as a limitation of powers.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.087. OTHER POWERS UNRESTRICTED. This subchapter does not restrict the power of a school district to sell property or

issue bonds as provided by other law.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

#### SUBCHAPTER E. MISCELLANEOUS PROVISIONS

##### Sec. 45.101. USE OF BOND PROCEEDS FOR UTILITY CONNECTIONS.

The proceeds of bonds issued by school districts for the construction and equipment of school buildings in the district and the purchase of the necessary sites for school buildings may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of a municipality or private utility company, whether or not the water, sewer, or gas lines adjoin the school, so that the school district may provide its public school buildings the water, sewer, or gas services.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

##### Sec. 45.102. INVESTMENT OF BOND PROCEEDS IN OBLIGATIONS OF UNITED STATES OR INTEREST-BEARING SECURED TIME BANK DEPOSITS. (a)

A school district that has on hand proceeds received from the issuance and sale of bonds or certificates of indebtedness of the district that are not immediately needed for the purposes for which the bonds or certificates of indebtedness were issued and sold, may, on order of the board of trustees:

(1) place the proceeds on interest-bearing time deposit, secured in the manner provided by Section 45.208, with a state or national banking corporation in this state the deposits of which are insured by the Federal Deposit Insurance Corporation; or

(2) invest the proceeds in bonds or other obligations of the United States.

(b) Interest-bearing secured time deposits or bonds or other obligations of the United States in which proceeds of bonds or certificates of indebtedness are placed or invested must be of a type that cannot be cashed, sold, or redeemed for an amount less than the sum deposited or invested by the school district.

(c) When the sums placed or invested by a school district are needed for the purposes for which the bonds or certificates of



indebtedness of the school district were originally authorized, issued, and sold:

(1) the time deposits or bonds or other obligations of the United States in which the sums have been placed or invested shall be cashed, sold, or redeemed; and

(2) the proceeds shall be used for the purposes for which the bonds or certificates of indebtedness of the school district were originally authorized, issued, and sold.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.103. INTEREST-BEARING TIME WARRANTS. (a) Any school district in need of funds to construct, repair, or renovate school buildings, purchase school buildings and school equipment, or equip school properties with necessary heating, water, sanitation, lunchroom, or electric facilities or in need of funds with which to employ a person who has special skill and experience to compile taxation data and that is financially unable out of available funds to construct, repair, renovate, or purchase school buildings, purchase school equipment, or equip school properties with necessary heating, water, sanitation, lunchroom, or electric facilities or is unable to pay the person for compiling taxation data, may, subject to this section, issue interest-bearing time warrants, in amounts sufficient to construct, purchase, equip, or improve school buildings and facilities or to pay all or part of the compensation of the person to compile taxation data, any law to the contrary notwithstanding. The warrants shall mature in serial installments of not more than 15 years from their date of issue. The warrants on maturity may be payable out of any available funds of the school district in the order of their maturity dates. Any interest-bearing time warrants may be issued and sold by the district for not less than their face value, and the proceeds used to provide funds required for the purpose for which they are issued. The warrants shall be entitled to first payment out of any available funds of the district as they become due. Included in the purposes for which interest-bearing time warrants may be issued is the payment of any amounts owed by the school district that was incurred in carrying out any of those

purposes.

(a-1) A school district may also issue interest-bearing time warrants to refund warrants previously issued under this section if the refunding warrants are coterminous with the refunded obligations.

(b) Interest-bearing time warrants may not be issued or sold by a common school district or rural high school district until they are approved by the county board of school trustees. The board shall, on application of the school district, inquire into the financial conditions and needs of the district, and may not approve the issuance of interest-bearing time warrants unless in its opinion the district:

(1) is in need of constructing, purchasing, repairing, or renovating a school building, obtaining the school equipment, or equipping school properties with necessary heating, water, sanitation, lunchroom, or electric facilities; and

(2) will be able with the resources in prospect to liquidate the warrants at their maturity.

(c) A school district may not issue interest-bearing time warrants in excess of five percent of the assessed valuation of the district for the year in which the warrants are issued. The payment of interest-bearing time warrants in any one year may not exceed the anticipated surplus income of the district for the year in which the warrants are issued, based on the budget of the district for that year. The anticipated income computed under this section is exclusive of all bond taxes. A school district may not have outstanding at any one time warrants totaling in excess of \$1 million under this section.

(d) If interest-bearing time warrants issued under this section are outstanding, the officer in charge of the collection of delinquent taxes shall pay those collections to the legal depository of the district, to be deposited and held in a special fund for the payment of the interest-bearing time warrants, and except as otherwise provided by this section, collections of delinquent taxes may not be applied or used for any other purpose.

(e) Interest and penalties on delinquent taxes are considered a part of those taxes for purposes of this section. If

any delinquent taxes, including interest and penalties, are canceled, waived, released, or reduced either by the school district or in any other way, with or without its consent, the amount of the loss sustained shall be paid by the district to the special fund provided for by Subsection (d) out of funds not otherwise pledged to that special fund.

(f) All school districts issuing interest-bearing time warrants may encumber and mortgage any property purchased with the proceeds of the warrants or any property, including teachers' residences, owned by the district to secure the payment of legally incurred obligations, except that a lien may not be placed on any school building in which actual classroom instruction of students is conducted.

(g) In this section, "interest-bearing time warrant" includes a promissory note or other evidence of indebtedness issued under this section.

(h) Taxes levied to pay principal and interest of bonds that are delinquent are not included in the term "delinquent taxes" as used in this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.  
Amended by Acts 1999, 76th Leg., ch. 1536, Sec. 3, eff. June 19, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1018 (H.B. [2610](#)), Sec. 1, eff. September 1, 2013.

Sec. 45.104. PLEDGE OF DELINQUENT TAXES AS SECURITY FOR LOAN. (a) The board of trustees of any school district may pledge its delinquent taxes levied for maintenance purposes for specific past, current, and future school years as security for a loan, and may evidence any such loan with negotiable notes, and the delinquent taxes pledged shall be applied against the principal and interest of the loan. Negotiable notes issued under this subsection must mature not more than 20 years from their date.

(b) A school district may not pledge delinquent taxes levied for school bonds as security for a loan.

(c) Funds secured through loans secured by delinquent taxes

may be employed for any legal maintenance expenditure or purpose of the school district, including all costs incurred in connection with:

(1) environmental cleanup and asbestos removal programs implemented by school districts; or

(2) maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties.

(d) A loan secured by delinquent taxes may bear interest at a rate not to exceed the maximum rate provided by Section 1204.006, Government Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.34, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.212, eff. Sept. 1, 2001.

Sec. 45.105. AUTHORIZED EXPENDITURES. (a) The public school funds may not be spent except as provided by this section.

(b) The state and county available funds may be used only for the payment of teachers' and superintendents' salaries and interest on money borrowed on short time to pay those salaries that become due before the school funds for the current year become available. Loans for the purpose of payment of teachers may not be paid out of funds other than those for the current year.

(c) Local school funds from district taxes, tuition fees of students not entitled to a free education, other local sources, and state funds not designated for a specific purpose may be used for the purposes listed for state and county available funds and for purchasing appliances and supplies, paying insurance premiums, paying janitors and other employees, buying school sites, buying, building, repairing, and renting school buildings, including acquiring school buildings and sites by leasing through annual payments with an ultimate option to purchase, and for other purposes necessary in the conduct of the public schools determined by the board of trustees. The accounts and vouchers for county districts must be approved by the county superintendent. If the

state available school fund in any municipality or district is sufficient to maintain the schools in any year for at least eight months and leave a surplus, the surplus may be spent for the purposes listed in this subsection.

(d) An independent school district that has in its limits a municipality with a population of 150,000 or more or that contains at least 170 square miles, has \$850 million or more assessed value of taxable property on the most recent approved tax roll and has a growth in average daily attendance of 11 percent or more for each of the preceding five years as determined by the agency may, in buying school sites or additions to school sites and in building school buildings, issue and deliver negotiable or nonnegotiable notes representing all or part of the cost to the school district of the land or building. The district may secure the notes by a vendor's lien or deed of trust lien against the land or building. By resolution or order of the governing body made at or before the delivery of the notes, the district may set aside and appropriate as a trust fund, and the sole and only fund, for the payment of the principal of and interest on the notes that part of the local school funds, levied and collected by the school district in that year or subsequent years, as the governing body determines. The aggregate amount of local school funds set aside in or for any subsequent year for the retirement of the notes may not exceed, in any one subsequent year, 10 percent of the local school funds collected during that year. The district may issue the notes only if approved by majority vote of the qualified voters voting in an election conducted in the manner provided by Section [45.003](#) for approval of bonds.

(e) The governing body of an independent school district that governs a junior college district under Subchapter B, Chapter [130](#), in a county with a population of more than two million may dedicate a specific percentage of the local tax levy to the use of the junior college district for facilities and equipment or for the maintenance and operating expenses of the junior college district. To be effective, the dedication must be made by the governing body on or before the date on which the governing body adopts its tax rate for a year. The amount of local tax funds

derived from the percentage of the local tax levy dedicated to a junior college district from a tax levy may not exceed the amount that would be levied by five percent of the effective tax rate for the tax year calculated as provided by Section 26.04, Tax Code, on all property taxable by the school district. All real property purchased with these funds is the property of the school district, but is subject to the exclusive control of the governing body of the junior college district for as long as the junior college district uses the property for educational purposes.

(f) Funds from a junior college district branch campus maintenance tax levied by a school district board of trustees under Section 130.253 may be used as provided by that section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.  
Amended by Acts 1997, 75th Leg., ch. 1071, Sec. 23, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 10, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1242 (H.B. 382), Sec. 3, eff. September 1, 2015.

Sec. 45.106. USE OF COUNTY AVAILABLE FUND APPORTIONMENT FOR AREA SCHOOLS CAREER AND TECHNOLOGY EDUCATION. (a) A school district or accumulation of districts that operates a school designated as an area school for career and technology education purposes or that participates in a designated area career and technology education program shall use its annual county available school fund apportionment, if any, in the operation of the area school or program or in financing facilities for the school, notwithstanding any laws to the contrary.

(b) A school district complying with Subsection (a) may not be held accountable for or charged with county available school funds in determining the district's eligibility for minimum foundation school program funds.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.107. INVESTMENT OF GIFTS, DEVICES, AND BEQUESTS. A

gift, devise, or bequest made to a school district to provide college scholarships for graduates of the district may be invested by the board of trustees of the district as provided by Section [117.004](#), Property Code, unless otherwise specifically provided by the terms of the gift, devise, or bequest.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2003, 78th Leg., ch. 1103, Sec. 9, eff. Jan. 1, 2004.

Sec. 45.108. BORROWING MONEY FOR CURRENT MAINTENANCE EXPENSES. (a) Independent or consolidated school districts may borrow money for the purpose of paying maintenance expenses and may evidence those loans with negotiable or nonnegotiable notes, except that the loans may not at any time exceed 75 percent of the previous year's income. The notes may be payable from and secured by a lien on and pledge of any available funds of the district, including proceeds of a maintenance tax. The term "maintenance expenses" or "maintenance expenditures" as used in this section means any lawful expenditure of the school district other than payment of principal of and interest on bonds. The term includes expenditures relating to notes issued to refund notes previously issued under this section if the refunding notes are coterminous with the refunded obligation. The term also includes all costs incurred in connection with environmental cleanup and asbestos cleanup and removal programs implemented by school districts or in connection with the maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties. Notes issued pursuant to this section may be issued to mature in not more than 20 years from their date. Notes issued for a term longer than one year must be treated as "debt" as defined in Section [26.012\(7\)](#), Tax Code.

(b) Notes may be issued under this section only after a budget has been adopted for the current school year.

(c) Notes issued under this section must be authorized by resolution adopted by a majority vote of the board of trustees, signed by the president or vice president and attested by the

secretary of the board.

(d) A note issued under this section may contain a certification that it is issued pursuant to and in compliance with this section and pursuant to a resolution adopted by the board of trustees. The certification is sufficient evidence that the note is a valid obligation of the district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.35, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1018 (H.B. [2610](#)), Sec. 2, eff. September 1, 2013.

Sec. 45.109. CONTRACTS FOR ATHLETIC FACILITIES. (a) Any independent school district, acting by and through its board of trustees, may contract with any corporation, municipality, or institution of higher education, as defined by Section [61.003](#), located wholly or partially in its boundaries, for the use of any stadium and other athletic facilities owned by or under the control of the other entity. The contract may be for any period not exceeding 75 years and may contain terms agreed on by the parties.

(a-1) An independent school district and an institution of higher education, as defined by Section [61.003](#), located wholly or partially in the boundaries of the county in which the district is located may contract for the district to contribute district resources to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the institution of higher education. A district may contribute district resources under this subsection only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility.

(a-2) One or more independent school districts and an institution of higher education, as defined by Section [61.003](#), may contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility owned by or under the control of the



institution of higher education. A district may contribute district resources under this subsection only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility, including authorizing the enrollment of district students in courses offered at that facility.

(a-3) An independent school district and a municipality, located wholly or partially in the boundaries of a county in which the district is located, may contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility, stadium, or other athletic facility owned by, on the property of, or under the control of the municipality. A district may contribute district resources under this subsection only if the district and municipality enter into a written agreement authorizing the district to use that facility.

(b) The district may enter into a contract for the use of athletic facilities for any purpose related to sports activities and other physical education programs for the students at the public schools of the district.

(c) The consideration for a contract under this section may be paid from any source available to the independent school district. If voted as provided by this section, the district may pledge to the payment of the contract an annual maintenance tax in an amount sufficient, without limitation, to provide all of the consideration. If voted and pledged, the maintenance tax shall be assessed, levied, and collected annually in the same manner as provided by general law applicable to independent school districts for other maintenance taxes.

(d) A maintenance tax may not be pledged to the payment of any contract under this section or assessed, levied, or collected unless an election is held in the district and the maintenance tax is favorably voted by a majority of the qualified voters of the district voting at the election. The election order for an election under this subsection must include the polling place or places and any other matters considered advisable by the board of trustees.

(e) An agreement entered into before the construction of an

instructional facility, stadium, or other athletic facility, as provided by Subsection (a-1), (a-2), or (a-3) does not violate Section 11.169.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 74, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 196 (S.B. 810), Sec. 2, eff. May 28, 2015.

Sec. 45.110. AUTHORIZED BUT UNISSUED BONDS. (a) This section applies to any independent school district that has previously voted or authorized school bonds for a specific purpose or purposes and the purpose or purposes have been accomplished by other means or have been abandoned and all or a portion of the bonds authorized remain unissued.

(b) The board of trustees of the district may, on its own motion, order an election to submit to the qualified voters of the district the proposition of whether or not the authorized but unissued bonds may be issued, sold, and delivered for other and different purposes specified in the election order and the election notice. The election shall be ordered, held, and conducted in the same form and manner as that at which the bonds were originally authorized.

(c) If a majority of those voting at the election vote in favor of the sale and delivery of the unissued bonds and the use of the proceeds of the bonds for the purpose or purposes specified in the election order and the election notice, the board of trustees may issue, sell, and deliver the bonds and use the proceeds of the bonds for the purpose or purposes authorized at the election.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.111. CERTIFICATES OF INDEBTEDNESS; ISSUANCE BY CERTAIN SCHOOL AND JUNIOR COLLEGE DISTRICTS. (a) Any school district, including a junior college district, situated in a county with a population of 200,000 or more may issue interest-bearing certificates of indebtedness to provide funds for erecting or

equipping school buildings in the boundaries of the district or refinancing outstanding certificates as provided by this section. The term "certificates," as used in this section, includes all obligations authorized to be issued under this section and the interest on those obligations.

(b) The governing body of the district shall provide for the payment of the certificates issued under this section by appropriating and pledging local school funds derived from maintenance taxes levied and assessed under Sections 45.002 and 130.122; Chapter 273, Acts of the 53rd Legislature, Regular Session, 1953 (Article 2784g, Vernon's Texas Civil Statutes); or other similar law that limits the amount of tax that may be levied for maintenance purposes, as distinguished from bond requirements. The appropriation and pledge may be in the nature of a continuing irrevocable pledge to apply the first moneys collected annually from the tax levy to the payment of the obligations or by the irrevocable present levy and appropriation of the amount of the maintenance tax required to meet the annual debt service requirements of the obligations, in which event the governing body shall covenant to annually set aside the amount in the annual tax levy, showing the same is a portion of the maintenance tax. The governing body shall annually budget the amount required to pay the principal and interest of the obligations that may be scheduled to become due in any fiscal year. This section may not be construed as permitting the levy of a maintenance tax in excess of the amount approved by the qualified voters of the district.

(c) A district may not at any one time have certificates outstanding and unpaid in principal amount in excess of \$250,000, unless the excessive amount becomes the obligation of the district by assumption under Subsection (k) or the new certificates are being issued to refund or refinance outstanding obligations under Subsection (i).

(d) The principal amount of certificates that may be authorized at any one time and the scheduling of their principal maturity are further restricted as follows:

(1) if the assessed valuation is more than \$1 million and less than \$15 million, the limiting factor is 25 cents;

(2) if the assessed valuation is \$15 million or more but less than \$35 million, the limiting factor is 15 cents; and

(3) if the assessed valuation is \$35 million or more, the limiting factor is 5 cents.

(e) Assessed valuation means the valuation for school district purposes on the tax rolls of the district most recently approved before the authorization of the certificates. The limiting factor for a particular district, as prescribed by Subsection (d), is multiplied by the assessed valuation of the district, and the product is the maximum amount of debt service requirements on the certificates that may be scheduled to become due in any fiscal year on a cumulative basis. A district that has an assessed valuation less than \$1 million may not issue certificates under this section.

(f) Certificates authorized to be issued under this section shall be payable at the times and be in such form and denomination or denominations either in coupon form or registered as to principal, interest, or both. The certificates may contain options for redemption before the scheduled maturity and may be payable at the place and may contain other provisions as the governing body of the district determines. A certificate may not mature over a period in excess of 25 years from the date of the certificate or bear interest at a rate in excess of seven percent per annum.

(g) Except if issued in exchange for certificates outstanding as provided by Subsection (i), the certificates shall be sold for cash at not less than the face or par value plus accrued interest. The proceeds shall be applied for the purpose for which the certificates were issued, except that all accrued interest and premium received, if any, shall be deposited in the interest and sinking fund established for the payment of the obligations. The cost of issuing the obligations, including attorneys', printing, and fiscal fees, may be paid from the proceeds, except if certificates are sold under Subsection (i).

(h) The certificates, including interest whether issued in coupon or registered form, are securities within the meaning of Chapter 8, Business & Commerce Code, and that chapter applies to the certificates after their approval by the attorney general and

registration by the comptroller.

(i) Each governing body may refund or refinance outstanding certificates by issuing new interest-bearing certificates within the limitations and conditions provided in this section. The new certificates shall be issued and delivered in lieu of and on surrender to the comptroller and the cancellation of the obligations being refunded, and the comptroller shall register the new certificates and deliver them in accordance with the order authorizing their issuance. The new certificates may be issued in accordance with Subchapter A, Chapter 1207, Government Code, and delivered in accordance with Subchapter B or C of that chapter.

(j) A certified copy of all proceedings relating to the authorization of the certificates shall be submitted to the attorney general.

(k) Certificates issued under this section are an indebtedness of the school district issuing them, but the holder of a certificate does not have the right to demand payment out of any fund other than those pledged to its payment. If the boundary lines of any issuing district are changed while the certificates remain outstanding, the indebtedness shall be adjusted or assumed as provided under general law for the adjustment of bond indebtedness payable from taxation.

(l) For purposes of this section, the governing body of a common school district is the commissioners court of the county having administrative jurisdiction. The governing body of an independent school district, a rural high school district, or a junior college district is its board of trustees, and the governing body of a municipally controlled school district is the city or town council or commission. Certificates shall be authorized by order of the governing body of the district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.  
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.213, eff. Sept. 1, 2001.

Sec. 45.112. CONTRACTS FOR INVESTMENT OF DEBT SERVICE FUNDS. (a) A school district, including a junior college district or community college district, may enter into a contract with a term

not to exceed seven years to purchase investments with the proceeds of taxes levied or to be levied by the district for the purpose of paying debt service on bonds issued by the district.

(b) A contract under this section may provide for the purchase of investments at a stated yield or yields.

(c) Before entering a contract under this section, a school district must solicit and receive bids from at least three separate providers. The district must accept the qualifying bid that provides for the highest yield investments over the term of the contract.

(d) A contract under this section may provide only for the purchase of an obligation described by Section 2256.009(a)(1), Government Code, other than an obligation described by Section 2256.009(b) of that code.

Added by Acts 1999, 76th Leg., ch. 1535, Sec. 1, eff. June 19, 1999.

Sec. 45.113. TRUST FOR COUNTY PERMANENT SCHOOL FUND. (a) Notwithstanding former Subchapter E, Chapter 17, as that subchapter existed on May 1, 1995, the commissioners court of a county may:

(1) sell or otherwise dispose of county school lands in the manner determined by the court;

(2) establish an irrevocable trust for the proceeds of a sale or other disposition under Subdivision (1); and

(3) invest the principal of a trust created under Subdivision (2) in any investment permitted for other county funds under Chapter 2256, Government Code.

(b) The members of the commissioners court and their successors in office must be the sole trustees of a trust established under Subsection (a)(2). The trustees may not delegate the authority to manage or invest the trust but may contract with qualified persons for investment advice.

(c) The principal of a trust established under Subsection (a)(2) constitutes a portion of the county permanent school fund and must be held in perpetuity for the benefit of the public schools in the county. The income of a trust established under Subsection (a)(2) constitutes a portion of the county available school fund and may be distributed as permitted by law.

Added by Acts 2007, 80th Leg., R.S., Ch. 641 (H.B. 890), Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER F. ATHLETIC STADIUM AUTHORITIES

Sec. 45.151. DEFINITIONS. In this subchapter:

(1) "District" means any independent school district.

(2) "Stadium" means the structural and associated facilities designed for staging and holding athletic contests and other events.

(3) "Authority" means an athletic stadium authority created under this subchapter.

(4) "Board of directors" means the board of directors of the authority.

(5) "Bond resolution" means the resolution authorizing the issuance of revenue bonds.

(6) "Trust indenture" means the mortgage, deed of trust, or other instrument pledging revenues of or creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the authority.

(7) "Trustee" means the trustee under the trust indenture.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.152. CREATION OF AUTHORITY. (a) If the boards of trustees of two districts find that it is to the best interest of the districts to create an athletic stadium authority to include the districts, each board of trustees shall adopt a resolution creating an authority and designating the name by which it shall be known.

(b) An authority is a body politic and corporate. It must have a seal, may sue and be sued, and may make, amend, and repeal its bylaws.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.153. BOARD OF DIRECTORS. (a) An authority is governed by a board of directors consisting of seven members. The

members of the board serve terms ending May 1. A member's term may not exceed two years. The board of trustees of each district shall each appoint three directors, and the appointees shall by majority vote appoint a seventh director.

(b) The board of directors shall elect from among the directors a president and vice president. The board shall elect a secretary and a treasurer who may or may not be directors and may elect other officers as authorized by the authority's bylaws. The offices of secretary and treasurer may be combined. The president has the same right to vote on all matters as other members of the board.

(c) A majority of the members of the board constitutes a quorum, and when a quorum is present, action may be taken by a majority vote of directors present.

(d) The board may employ a manager and other employees, experts, and agents or may delegate to the manager the power to employ and discharge employees. The board may employ legal counsel.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.154. CONSTRUCTION, ACQUISITION, AND OPERATION OF STADIUM. An authority may construct, enlarge, furnish, and equip stadia, purchase existing stadia, furnishings, and equipment for its stadia, and operate and maintain stadia. A stadium need not be located inside a district creating the authority.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.155. BONDS. (a) An authority may issue revenue bonds to provide funds for any of its purposes. The bonds shall be payable from and secured by a pledge of all or any part of the revenue to be derived from the operation of the stadium or stadia and any other revenues resulting from the ownership of stadium properties. The bonds may be additionally secured by a mortgage or deed of trust on property of the authority.

(b) The bonds must be authorized by resolution adopted by a majority vote of a quorum of the board of directors. The bonds shall be signed by the president or vice president and



countersigned by the secretary, or either or both of their facsimile signatures may be printed on the bonds. The seal of the authority shall be impressed or printed on the bonds.

(c) The bonds shall mature serially or otherwise in not to exceed 40 years. Appropriate provisions may be inserted in the resolution authorizing the execution and delivery of bonds for the conversion of registered bonds into bearer bonds and vice versa.

(d) Provisions may be made in the bond resolution or trust indenture for the substitution of new bonds for those lost or mutilated. When bonds are approved by the attorney general and registered by the comptroller, it is not necessary to obtain the approval of the attorney general or registration by the comptroller as to converted or substituted bonds.

(e) Bonds constituting a junior lien on the revenue or properties may be issued unless prohibited by the bond resolution or trust indenture. Parity bonds may be issued under conditions specified in the bond resolution or trust indenture.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.156. CONTRACTS WITH SCHOOL DISTRICTS. (a) Any district, acting by and through its board of trustees, may contract with any athletic stadium authority organized under this subchapter for the use of any stadium owned by the authority. The contract may be for any period not exceeding 75 years and may contain terms agreed on by the parties.

(b) The district may enter into a contract for the use of the stadium for any purpose related to sports activities and other physical education programs for the students at the public schools operated and maintained by the district.

(c) The consideration payable by the district under a contract may be paid from any source available to the district. If voted, the district may pledge to the payment of the contract an annual maintenance tax in an amount sufficient, without limitation, to provide all or part of the consideration. If voted and pledged, the maintenance tax shall be assessed, levied, and collected annually in the same manner as provided by general law applicable to independent school districts for other maintenance taxes. A

maintenance tax may not be pledged to the payment of any contract or assessed, levied, or collected unless an election is held in the district, and the maintenance tax for that purpose is favorably voted by a majority of the qualified voters of the district. The election order for an election under this subsection must include the polling place or places and any other matters considered advisable by the board of trustees.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.157. EXAMINATION OF BONDS BY ATTORNEY GENERAL. Bonds issued under this subchapter and the record relating to their issuance shall be submitted to the attorney general.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.158. CHARGES FOR USE OF STADIUM. (a) The board of directors shall charge sufficient rates for services rendered by the stadium and shall use other sources of its revenues so that revenues will be produced sufficient to:

- (1) pay all expenses in connection with the ownership, operation, and upkeep of the stadium;
- (2) pay the interest on the bonds as it becomes due;
- (3) create a sinking fund to pay the bonds as they become due; and
- (4) create and maintain a bond reserve fund and other funds as provided in the bond resolution or trust indenture.

(b) The bond resolution or trust indenture may prescribe systems, methods, routines, and procedures under which the stadium shall be operated.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.159. DEPOSITORY. An authority may select a depository according to the procedures provided by law for the selection of independent school district depositories.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.160. TAX EXEMPTION. Recognizing the fact that the property owned by an authority will be held for public purposes only

and will be devoted exclusively to the use and benefit of the public, it is exempt from taxation of every character.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.161. EMINENT DOMAIN. For the purpose of carrying out any power conferred by this subchapter, an authority may acquire the fee simple title to land and other property and easements by condemnation in the manner provided by Chapter 21, Property Code. An authority is a municipal corporation within the meaning of Section 21.021(c), Property Code. The amount of and character or interest in land, other property, and easements to be acquired shall be determined by the board of directors.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.162. INVESTMENT OF BOND PROCEEDS. In addition to other powers, an authority may invest the proceeds of its bonds, until that money is needed, in the direct obligations of or obligations unconditionally guaranteed by the United States, to the extent authorized in the bond resolution or trust indenture or in both.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.163. ACCEPTANCE OF GIFTS. The board of directors may accept donations, gifts, and endowments to be held and administered as may be required by the respective donors, to the extent that those requirements do not contravene law.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

#### SUBCHAPTER G. SCHOOL DISTRICT DEPOSITORIES

Sec. 45.201. DEFINITIONS. In this subchapter:

(1) "School district" means any independent school district.

(2) "Bank" means a bank, a savings and loan association, or a savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state. The term does not include any bank the

deposits of which are not insured by the Federal Deposit Insurance Corporation.

(3) "Time deposit," "time certificate," "certificate of deposit," and "time deposit-open account" have the definitions adopted for those terms by the Board of Governors of the Federal Reserve System.

(4) "Approved securities" means:

(A) bonds of this state or any agency or political subdivision of this state;

(B) all evidences of indebtedness legally issued by the board of trustees of the depositing school district;

(C) all debt securities that are a direct obligation of the treasury of the United States;

(D) reducing principal balance securities, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities;

(E) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities; and

(F) those securities provided for by Article 842, Revised Statutes, and Section 1, Chapter 160, General Laws, Acts of the 43rd Legislature, 1933 (Article 842a, Vernon's Texas Civil Statutes).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.49, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 344, Sec. 5.002, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 201, Sec. 39, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 417 (S.B. 1693), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 417 (S.B. 1693), Sec. 2, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1199 (H.B. 573), Sec. 1, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1199 (H.B. 573), Sec. 2, eff. June 18, 2005.

Sec. 45.202. SELECTION OF DEPOSITORY. The school depository or depositories of every independent school district may be selected only as provided by this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.203. DEPOSITORY MUST BE A BANK. A school depository must be a bank located in this state.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.204. CONFLICT OF INTEREST. (a) If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank, the bank is not disqualified from bidding, submitting a proposal, or becoming the depository of the district if the bank is selected by a majority vote of the board of trustees of the district or a majority vote of a quorum when only a quorum is present.

(b) If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank that has bid or submitted a proposal to become a depository for the district, the member may not vote on awarding a depository contract to the bank, and the contract must be awarded by a majority vote of the trustees as provided by Subsection (a) who are not either a stockholder, officer, director, or employee of a bank receiving a district depository contract.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 322 (H.B. 2411), Sec. 1, eff. June 15, 2007.

Sec. 45.205. TERM OF CONTRACT. (a) Except as provided by Subsection (b), the depository bank when selected shall serve for a term of two years and until its successor is selected and has qualified.

(b) A school district and the district's depository bank may

agree to extend a depository contract for three additional two-year terms. The contract may be modified for each two-year extension if both parties mutually agree to the terms. An extension under this subsection is not subject to the requirements of Section [45.206](#).

(c) The contract term and any extension must coincide with the school district's fiscal year.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1308, Sec. 1, eff. June 20, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 322 (H.B. [2411](#)), Sec. 2, eff. June 15, 2007.

Acts 2017, 85th Leg., R.S., Ch. 1117 (S.B. [754](#)), Sec. 1, eff. September 1, 2017.

Sec. 45.206. BID OR REQUEST FOR PROPOSAL NOTICES; BID AND PROPOSAL FORMS. (a) Not later than the 60th day before the date a school district's current depository contract expires, the district shall choose whether to select a depository through competitive bidding or through requests for proposals.

(a-1) If a school district chooses under Subsection (a) to use competitive bidding, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include a uniform bid blank in the form prescribed by State Board of Education rule.

(a-2) If a school district chooses under Subsection (a) to use requests for proposals, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include a uniform proposal blank in the form prescribed by State Board of Education rule.

(b) The school district may add to the uniform bid or

proposal blank other terms that do not unfairly restrict competition between banks in or near the territory of the district.

(c) Interest rates may be stated in the bid or proposal either as a fixed rate, as a percentage of a stated base rate, in relation to a stated prevailing rate varying from time to time, or in any other manner, but in every case in a uniform manner, that will permit comparison with other bids or proposals received.

(d) If the school district chooses under Subsection (a) to use requests for proposals, the district shall state the selection criteria, including the factors specified under Section 45.207(c), in the request for proposals and shall select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. A district may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 322 (H.B. 2411), Sec. 3, eff. June 15, 2007.

Sec. 45.207. AWARD OF CONTRACT. (a) A school district shall award the depository contract to the bank that submits the highest bid or the highest-ranked proposal, as determined under Subsection (c), except that the district may award the contract as provided by Subsection (a-1) if:

(1) the district:

(A) receives tying bids for the contract; or

(B) after evaluating the proposals for the contract, ranks two or more proposals equally;

(2) each bank submitting a tying bid or proposal has bid or proposed to pay the district the maximum interest rates allowed by law by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation; and

(3) the tying bids or proposals are otherwise equal in

the judgment and discretion of the board of trustees of the district.

(a-1) In the case of tying bids or proposals, the board of trustees may award the depository contract by:

(1) determining by lot which of the banks submitting the tying bids or proposals will receive the contract; or

(2) awarding a contract to each of the banks submitting the tying bids or proposals.

(b) The board of trustees may, during the period of the contract, determine the amount of funds to be deposited in each depository bank and determine the account services offered in the bid or proposal form that are to be provided by each bank in its capacity as school district depository. All funds received by the district from or through the agency shall be deposited, at the district's option, in one depository bank or invested in a public funds investment pool created under Chapter 791, Government Code, to be designated by the district.

(c) The board of trustees of the school district shall at a regular or special meeting consider in accordance with this subsection each bid or proposal received. In determining the highest and best bid or the highest-ranked proposal, or in case of tying bids or proposals the highest and best tying bids or proposals, the board of trustees shall consider:

(1) the interest rate bid or proposed on time deposits;

(2) charges for keeping district accounts, records, and reports and furnishing checks;

(3) the ability of the bank submitting the bid or proposal to provide the necessary services and perform the duties as school district depository; and

(4) any other matter that in the judgment of the board of trustees would be to the best interest of the school district.

(d) The board of trustees of the school district has the right to reject any and all bids or proposals.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 322 (H.B. 2411), Sec. 3, eff.



June 15, 2007.

Sec. 45.208. DEPOSITORY CONTRACT; BOND. (a) The bank or banks selected as the depository or depositories and the school district shall enter into a depository contract or contracts, bond or bonds, or other necessary instruments setting forth the duties and agreements pertaining to the depository, in a form and with the content prescribed by the State Board of Education. The parties shall attach to the contract and incorporate by reference the bid or proposal of the depository.

(b) The depository bank shall attach to the contract and file with the school district a bond in an initial amount equal to the estimated highest daily balance, determined by the board of trustees of the district, of all deposits that the school district will have in the depository during the term of the contract, less any applicable Federal Deposit Insurance Corporation insurance. The bond must be payable to the school district and must be signed by the depository bank and by some surety company authorized to do business in this state. The depository bank shall increase the amount of the bond if the board of trustees determines it to be necessary to adequately protect the funds of the school district deposited with the depository bank.

(c) The bond shall be conditioned on:

(1) the faithful performance of all duties and obligations devolving by law on the depository;

(2) the payment on presentation of all checks or drafts on order of the board of trustees of the school district, in accordance with its orders entered by the board of trustees according to law;

(3) the payment on demand of any demand deposit in the depository;

(4) the payment, after the expiration of the period of notice required, of any time deposit in the depository;

(5) the faithful keeping of school funds by the depository and the accounting for the funds according to law; and

(6) the faithful paying over to the successor depository all balances remaining in the accounts.

(d) The bond and the surety on the bond must be approved by the board of trustees of the school district. A premium on the depository bond may not be paid out of school district funds.

(e) A copy of the depository contract and bond shall be filed with the agency.

(f) In lieu of the bond required under Subsection (b), the depository bank may deposit or pledge, with the school district or with a trustee designated by the school district, approved securities in an amount sufficient to adequately protect the funds of the school district deposited with depository bank. A depository bank may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the school district deposited with the depository bank. The school district shall designate from time to time the amount of approved securities or the aggregate amount of the bond and approved securities to adequately protect the district. The district may not designate an amount less than the balance of school district funds on deposit with the depository bank from day to day, less any applicable Federal Deposit Insurance Corporation insurance. The depository bank may substitute approved securities on obtaining the approval of the school district. For purposes of this subsection, the approved securities are valued at their market value.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 322 (H.B. [2411](#)), Sec. 4, eff. June 15, 2007.

Sec. 45.209. INVESTMENT OF DISTRICT FUNDS. The school district may provide in its bid or proposal blank for the right to place on time deposits with savings and loan institutions located in this state only funds that are fully insured by the Federal Deposit Insurance Corporation. A district may not place on deposit with any savings and loan institution any bond or certificate of indebtedness proceeds as provided by Section [45.102](#). A depository bank may not be compelled without its consent to accept on time deposit any bond proceeds under Section [45.102](#), but a depository

bank may offer a bid or proposal of interest equaling the highest bid or proposal of interest for the time deposit of the bond proceeds tendered by another bank. If the depository bank equals the bid or proposal, it is entitled to receive the bond proceeds on time deposit.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 322 (H.B. [2411](#)), Sec. 5, eff. June 15, 2007.

#### SUBCHAPTER H. ASSESSMENT AND COLLECTION OF TAXES

Sec. 45.231. EMPLOYMENT OF ASSESSOR AND COLLECTOR. (a) The board of trustees of an independent school district may employ a person to assess or collect the school district's taxes and may compensate the person as the board of trustees considers appropriate.

(b) This section does not prohibit an independent school district from providing for the assessment or collection of the school district's taxes under a method authorized by Subchapter B, Chapter [6](#), Tax Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 45.232. ALTERNATE METHODS OF SELECTION UNDER FORMER LAW. An independent school district that used a method of selecting the assessor or collector of the school district's taxes for the 1994 tax year that was authorized by former Subchapter F, Chapter 23, as that subchapter existed on January 1, 1994, but that is not authorized by Section [45.231](#) or by Subchapter B, Chapter [6](#), Tax Code, may continue to use that method of selection until the school district uses another method authorized by Section [45.231](#) or by Subchapter B, Chapter [6](#), Tax Code, to determine how the assessment or collection is performed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

#### SUBCHAPTER I. INTERCEPT PROGRAM TO PROVIDE CREDIT ENHANCEMENT FOR BONDS

Sec. 45.251. DEFINITIONS. In this subchapter:

(1) "Board" means the State Board of Education.

(2) "Foundation School Program" means the program established under Chapters 41, 42, and 46, or any successor program of state appropriated funding for school districts in this state.

(3) "Paying agent" means the financial institution that is designated by a school district as the district's agent for the payment of the principal of and interest on bonds for which credit enhancement is provided under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.252. INTERCEPT CREDIT ENHANCEMENT PROGRAM. (a) If a school district's application for guarantee of district bonds by the corpus and income of the permanent school fund as provided by Subchapter C is rejected, the district may apply under this subchapter for credit enhancement of bonds described by Section 45.054 by money appropriated for the Foundation School Program, other than money that is appropriated to school districts specifically:

(1) as required under the Texas Constitution; or

(2) for assistance in paying debt service.

(b) The same school district bonds may not benefit under both Subchapter C and this subchapter.

(c) Notwithstanding any amendment of this subchapter or other law, the credit enhancement provided under this subchapter for school district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.253. LIMITATION ON INTERCEPT CREDIT ENHANCEMENT.

(a) In each month of each fiscal year, the commissioner shall determine the amount of funds available to make payments under this subchapter from the Foundation School Program through the end of the fiscal year and the amounts due under this code to public

schools from the Foundation School Program through the end of the fiscal year. The commissioner may revise a determination under this subsection during the fiscal year as appropriate.

(b) The commissioner may not endorse particular bonds for credit enhancement under this subchapter until the commissioner has:

(1) made the determinations required under Subsection (a); and

(2) determined that the endorsement will not cause the projected debt service coming due during the remainder of the fiscal year for bonds provided credit enhancement under this subchapter to exceed the lesser of:

(A) one-half of the amount of funds due to public schools from the Foundation School Program for the remainder of the fiscal year; or

(B) one-half of the amount of funds anticipated to be on hand in the Foundation School Program to make payments for the remainder of the fiscal year.

(c) The commissioner may not endorse particular bonds for credit enhancement under this subchapter unless the commissioner has determined that the maximum annual debt service on the bonds during any state fiscal year will not exceed the lesser of:

(1) one-half of the amount of funds due to public schools from the Foundation School Program for the current fiscal year; or

(2) one-half of the amount of funds anticipated to be on hand in the Foundation School Program to make payments for the current fiscal year.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. [3646](#)), Sec. 75, eff. September 1, 2009.

Sec. 45.254. ELIGIBILITY. To be eligible for approval by the commissioner for credit enhancement under this subchapter:

(1) bonds must be issued in the manner provided by Section [45.054](#); and

(2) payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.2541. INTERCEPT OF FOUNDATION SCHOOL PROGRAM APPROPRIATIONS AS CREDIT ENHANCEMENT. (a) Money appropriated for the Foundation School Program that may be used for the purpose under this subchapter and under any other law, rule, or regulation shall be used to provide credit enhancement for eligible bonds as provided by this subchapter, the General Appropriations Act, and board rule if using the permanent school fund to guarantee particular bonds would result in:

(1) a total amount of outstanding bonds guaranteed by the permanent school fund exceeding the amount authorized under:

(A) Section 45.053; or

(B) federal law or regulations; or

(2) the use of a portion of the cost value of the permanent school fund reserved under Section 45.0531, as determined by the board.

(b) If Foundation School Program appropriations are not sufficient in any year to pay principal or interest that becomes due on bonds for which credit enhancement is provided under this subchapter, the payment shall be made from the following year's Foundation School Program appropriations that may be used for the purpose under this subchapter before those appropriations are used for any other Foundation School Program purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.255. APPLICATION FOR CREDIT ENHANCEMENT. (a) A school district seeking credit enhancement of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for a guarantee under Subchapter C and then, if that guarantee is rejected, for credit enhancement under this subchapter.

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

(1) include the information required by Section 45.055(b); and

(2) be accompanied by a fee set by board rule in an amount designed to cover the costs of administering the programs to provide the guarantee or credit enhancement of eligible bonds.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.256. INVESTIGATION. (a) Following receipt of an application under Section 45.255, the commissioner shall conduct an investigation of the applicant school district as provided for an investigation under Section 45.056(a).

(b) If following the investigation under Subsection (a) the commissioner is satisfied that the school district's bonds should be guaranteed under Subchapter C or provided credit enhancement under this subchapter, as applicable, the commissioner shall endorse the bonds.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.257. CREDIT ENHANCEMENT ENDORSEMENT. (a) The commissioner shall endorse bonds approved for credit enhancement under this subchapter in substantially the same manner provided under Section 45.057 for endorsing bonds approved under Subchapter C.

(b) The credit enhancement is not effective unless the attorney general approves the bonds under Section 45.005.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.258. NOTICE OF FAILURE OR INABILITY TO PAY. Immediately following a determination that a school district will be or is unable to pay maturing or matured principal or interest on a bond for which credit enhancement is provided under this subchapter, but not later than the 10th day before maturity date, the school district shall notify the commissioner.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75,

eff. September 1, 2009.

Sec. 45.259. PAYMENT FROM INTERCEPTED FUNDS. (a) Immediately following receipt of notice under Section 45.258, the commissioner shall instruct the comptroller to transfer to the district's paying agent from appropriations to the Foundation School Program that may be used for the purpose under Section 45.252 and other law the amount necessary to pay the maturing or matured principal or interest.

(b) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount due.

(c) The procedures prescribed by Subsections (a) and (b) apply to each payment of principal or interest on bonds as the payment becomes due until the bonds mature or are defeased in accordance with state law.

(d) If money appropriated for the Foundation School Program is used for purposes of this subchapter and as a result there is insufficient money to fully fund the Foundation School Program, the commissioner shall, to the extent necessary, reduce each school district's foundation school fund allocations, other than any portion appropriated from the available school fund, in the same manner provided by Section 42.253(h) for a case in which school district entitlements exceed the amount appropriated. The following fiscal year, a district's entitlement under Section 42.253 is increased by an amount equal to the reduction under this subsection.

(e) A payment made under this section by the state on behalf of a school district of funds the district owes on bonds for which credit enhancement is provided under this subchapter creates a repayment obligation of the district to the state regardless of the maturity date of, or any payment of interest on, the bonds.

(f) This section does not create a debt of the state under the Texas Constitution or, except to the extent provided by this subchapter, create a payment obligation.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.



Sec. 45.260. BONDS NOT ACCELERATED ON FAILURE TO PAY. If a school district fails to pay principal or interest on a bond for which credit enhancement is provided under this subchapter when the amount matures, other amounts not yet mature are not accelerated and do not become due by virtue of the district's failure to pay amounts matured.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.261. REIMBURSEMENT OF FOUNDATION SCHOOL PROGRAM.

(a) If the commissioner orders payment from the money appropriated to the Foundation School Program on behalf of a school district that is not required to reduce its wealth per student under Chapter 41, the commissioner shall direct the comptroller to withhold the amount paid from the first state money payable to the district. If the commissioner orders payment from the money appropriated to the Foundation School Program on behalf of a school district that is required to reduce its wealth per student under Chapter 41, the commissioner shall increase amounts due from the district under that chapter in a total amount equal to the amount of payments made on behalf of the district under this subchapter. Amounts withheld or received under this subsection shall be used for the Foundation School Program.

(b) In accordance with commissioner rules, the commissioner may authorize reimbursement of the Foundation School Program in a manner other than that provided by this section.

(c) The commissioner may order a school district to set an ad valorem tax rate capable of producing an amount of revenue sufficient to enable the district to:

- (1) provide reimbursement under this section; and
- (2) pay the remaining principal of and interest on the bonds as the principal and interest become due.

(d) If a school district fails to comply with the commissioner's order under Subsection (c), the commissioner may impose any sanction on the district authorized to be imposed on a district under Chapter 39A, including appointment of a board of

managers or annexation to another district, regardless of the district's accreditation status or the duration of a particular accreditation status.

(e) Any part of a school district's tax rate attributable to producing revenue for purposes of Subsection (c)(1) is considered part of the district's:

(1) current debt rate for purposes of computing a rollback tax rate under Section 26.08, Tax Code; and

(2) interest and sinking fund tax rate.

(f) On reimbursement by a school district as required by this section, the commissioner shall pay to the district any amount withheld under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 7.013, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 21.003(30), eff. September 1, 2017.

Sec. 45.262. REPEATED FAILURE TO PAY. (a) If a total of two or more payments are made under Subchapter C or this subchapter on the bonds of a school district and the commissioner determines that the district is acting in bad faith under the guarantee program under Subchapter C or the credit enhancement program under this subchapter, the commissioner may request the attorney general to institute appropriate legal action to compel the district and the district's officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

(b) Jurisdiction of proceedings under this section is in district court in Travis County.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.263. RULES. (a) The commissioner shall adopt rules necessary for the administration of the bond credit enhancement program under this subchapter.

(b) In adopting rules under Subsection (a), the commissioner shall establish an annual deadline by which a school district must pay the debt service on bonds for which credit enhancement is provided under this subchapter. The deadline established may not be later than the 10th day before the date specified under Section 42.259 for payment to school districts of the final Foundation School Program installment for a state fiscal year.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

SUBCHAPTER J. OPEN-ENROLLMENT CHARTER SCHOOL FACILITIES CREDIT  
ENHANCEMENT PROGRAM

Sec. 45.301. DEFINITIONS. In this subchapter:

(1) "Charter holder" has the meaning assigned by Section 12.1012.

(2) "Program" means the open-enrollment charter school facilities credit enhancement program established under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.302. ESTABLISHMENT OF PROGRAM. (a) The commissioner by rule may establish an open-enrollment charter school facilities credit enhancement program to assist charter holders in obtaining financing for the purchase, repair, or renovation of real property, including improvements to real property, for facilities of open-enrollment charter schools.

(b) The commissioner may adopt a structure and procedures for the program that are substantially similar to the structure and procedures for the credit enhancement program for school district bonds under Subchapter I.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.303. LIMITATION ON PARTICIPATION; MINIMUM

REQUIREMENTS FOR DEBT SERVICE RESERVE. In adopting rules under Section 45.302, the commissioner may:

(1) limit participation in the program to charter holders who hold charters for open-enrollment charter schools that meet standards established by the commissioner, including standards for financial stability, compliance with applicable state and federal program requirements, and student academic performance; and

(2) impose minimum requirements for a debt service reserve to secure repayment of obligations for which credit enhancement is provided under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.304. ALLOCATION OF PORTION OF FOUNDATION SCHOOL PROGRAM FUNDS FOR CREDIT ENHANCEMENT. (a) The commissioner may allocate not more than one percent of the amount appropriated for the Foundation School Program for purposes of the program under this subchapter.

(b) The funds allocated under this section may not be considered available for purposes of any other credit enhancement program.

(c) Only those Foundation School Program funds allocated under this section may be committed to the program under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.305. PRIVATE MATCHING FUNDS REQUIRED; USE OF OTHER STATE FUNDS. (a) The commissioner may not implement the program unless private funds in an amount at least equal to the amount of state funds allocated under Section 45.304 are obligated to the program for at least the first 10 years of the term of obligations for which credit enhancement is provided under the program.

(b) The commissioner may use state funds allocated under Section 45.304 to pay any amount due for credit enhancement under the program and, subject to the terms of the applicable private

credit obligation agreement, provide for payment of private funds to the Foundation School Program in an amount equal to at least one-half of the amount of the state funds paid. The commissioner may also use any other state funds available for the purpose to make payments under this subchapter or to reimburse the Foundation School Program for payments made under this subchapter from Foundation School Program funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.306. REPAYMENT; LIEN. (a) If a charter holder on behalf of which the state makes a payment under the program does not immediately repay the Foundation School Program the amount of the payment, the commissioner shall withhold any funds due from the state to the charter holder as necessary to recover the total amount of state and private funds paid on behalf of the charter holder under the program.

(b) If a charter holder is for any reason, including revocation or surrender of a charter or bankruptcy, unable to repay any amount due under this subchapter, any loss of funds shall be shared equally between the Foundation School Program and the person providing the private funds obligated for credit enhancement under this subchapter.

(c) A charter holder for which credit enhancement is provided under this subchapter to purchase, repair, or renovate real property for open-enrollment charter school facilities must agree to execute a lien on that real property in a form prescribed by the commissioner and approved by the attorney general to secure repayment of all amounts due to the state from the charter holder, including reimbursement of any private funds paid on behalf of an open-enrollment charter school under this subchapter.

(d) A lien under this section must be filed in the real property records of each county in which the real property is located. A lien under this section has priority over any other claim against the real property except a lien granted to the holders of obligations issued to finance the acquisition of the real property and any security interest or lien existing before credit

enhancement is provided under this subchapter.

(e) The commissioner shall notify a charter holder of any amount determined to be due to the state, including federal funds. If the full amount due to the state has not been repaid or recovered by the commissioner from other funds due to the charter holder within the current and subsequent school year, the commissioner may request the attorney general to file an action to foreclose on a lien under this section. Funds recovered from foreclosure of a lien under this section shall be credited first to any security interest or lien with priority over the lien under this section, then to the charter holder's obligation under this section, and then to any other program to which the funds are due.

(f) Venue for a suit under this section is in Travis County. Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.307. STATUS OF PROGRAM. (a) The program is separate from and does not create any claim to the credit enhancement program for school district bonds under Subchapter I.

(b) This subchapter does not create a debt of the state under the Texas Constitution or, except to the extent provided by this subchapter, create a payment obligation.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.

Sec. 45.308. RULES. If the commissioner establishes a program under this subchapter, the commissioner shall adopt rules to administer the program.

Added by Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 75, eff. September 1, 2009.