

ATTACHMENT I

Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, §33.65, Bond Guarantee Program for School Districts, and §33.67, Bond Guarantee Program for Charter Schools

TEC, Chapter 45, School District Funds, Subchapter C, Guaranteed Bonds.

TEC, §45.053, Limitation: Value Estimates (excerpt):

- (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.

TEC, §45.0532, Limitation on Guarantee of Charter District Bonds, as amended by Senate Bill (SB) 1480, 85th Texas Legislature, Regular Session, 2017:

- (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 [percentage of the total available capacity] of the guaranteed bond program [~~that is equal to the percentage of the number of students enrolled in open enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner~~].
- (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 [~~total amount available for the guarantee of charter district bonds under Subsection (a)~~].
- (b) For purposes of this section [~~Subsection (a)~~], the charter [total available] capacity of the guaranteed bond program is the percentage of the total capacity of the guaranteed bond program [limit] 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 [~~minus the total amount of outstanding guaranteed bonds~~]. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).
- (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.

TEC, §45.0571, Charter District Bond Guarantee Reserve Fund, as amended by SB 1480, 85th Texas Legislature, Regular Session, 2017:

- (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 [A] charter district that has a bond guaranteed as provided by this subchapter must [~~annually~~] remit to the commissioner, for deposit in the charter district bond guarantee reserve fund, an amount equal to 20 [~~10~~] percent of the savings to the charter district that is a result of the lower interest rate on the bond due to the guarantee by the permanent school fund. The amount due under this section shall be [~~amortized and~~] paid on receipt by the charter district of the bond proceeds [~~over the duration of the bond. Each payment is due on the anniversary of the date the bond was issued~~]. The commissioner shall adopt rules to determine the amount [~~total and annual amounts~~] 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. [~~The commissioner may direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.~~]
- (d) Each year, the commissioner shall:
 - (1) review the condition of the bond guarantee program and the amount that must be deposited in the charter district bond guarantee reserve fund from charter districts; and
 - (2) determine if charter districts should be required to submit a greater percentage of the savings resulting from the guarantee.
- (e) The commissioner shall make recommendations to the legislature based on the review under Subsection (d).

TEC, §45.063, Rules:

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

Texas Constitution, Article VII, Education, §5, Permanent School Fund; Available School Fund; Use of Funds; Distribution of Available School Fund (excerpt):

- (d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed \$750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.