

## ATTACHMENT I

### **Statutory Citations Relating to Proposed Amendment 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, §33.67, Bond Guarantee Program for Charter Schools**

#### **Texas Education Code (TEC), Chapter 7, State Organization, Subchapter D, State Board of Education, §7.102, State Board of Education Powers and Duties (excerpt):**

- (c)(33) The board shall adopt an annual report on the status of the guaranteed bond program and may adopt rules as necessary for the administration of the program as provided under Subchapter C, Chapter 45.

#### **TEC, §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.

#### **TEC, §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.

**TEC, §45.0532, Limitation on Guarantee of Charter District Bonds.**

- (a) In addition to the general limitation under Section 45.053, the commissioner may not approve charter district bonds for guarantee under this subchapter in a total amount that exceeds the percentage of the total available capacity of the guaranteed bond program that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner.
- (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 total amount available for the guarantee of charter district bonds under Subsection (a).
- (b) For purposes of Subsection (a), the total available capacity of the guaranteed bond program is the limit established by the board under Sections 45.053(d) and 45.0531 minus the total amount of outstanding guaranteed bonds. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).
- (c) Notwithstanding Subsections (a) and (b), the commissioner may not approve charter district bonds for guarantee under this subchapter if the guarantee will result in lower bond ratings for school district bonds for which a guarantee is requested under this subchapter.
- (d) The commissioner may request that the comptroller place the portion of the permanent school fund committed to the guarantee of charter district bonds in a segregated account if the commissioner determines that a separate account is needed to avoid any negative impact on the bond ratings of school district bonds for which a guarantee is requested under this subchapter.
- (e) A guarantee of charter district bonds must be made in accordance with this chapter and any applicable federal law.

**TEC, §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.

**TEC, §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.

**TEC, §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.
- (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.

**Texas Education Code, Chapter 45, School District Funds, Subchapter C, Guaranteed Bonds, §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.