

CHAPTER 635

S.B. No. 700

An Act relating to the creation of cultural education facilities finance corporations and to the corporations' powers, authority, and rights.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. SHORT TITLE. This Act may be cited as the Cultural Education Facilities Finance Corporation Act.

SECTION 2. LEGISLATIVE FINDINGS. (a) The legislature finds that:

(1) the health, education, and general welfare of the people of this state require the development of new and expanded cultural facilities for the purpose of exhibition and promotion of and education about the performing, dramatic, visual, and literary arts, natural history, and science;

(2) the existence, development, and expansion of cultural facilities are essential to the continuing education, health, general welfare, and comfort of the citizens of this state;

(3) the means and measures authorized and the assistance provided by this Act are in the public interest and serve a public purpose in promoting the health, education, and general welfare of the people of this state by securing and maintaining cultural facilities and the resulting advancement of culture and civilization;

(4) qualified cultural organizations in this state have invested substantial funds in useful and beneficial cultural facilities and have experienced difficulty in undertaking additional projects because of the partial inadequacy of their own funds or of funds potentially available from local subscription sources and because of limitations of local financial institutions in providing necessary financing for these facilities; and

(5) the enactment of this Act will secure for present and future generations the benefits and nurturance derived from these cultural facilities.

(b) This Act shall be liberally construed to carry out the intention of the legislature.

SECTION 3. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of a cultural education facilities finance corporation.

(2) "Bond" means a bond, note, interim certificate, or other evidence of indebtedness of a corporation issued under this Act.

(3) "Corporation" means a cultural education facilities finance corporation created under this Act.

(4) "Cost," as applied to a cultural facility, means the cost of the cultural facility including:

(A) the cost of the acquisition of land or a right-of-way, option to purchase land, easement, leasehold estate in land, or other interest in land related to the cultural facility;

(B) the cost of acquisition, construction, repair, renovation, remodeling, or improvement of a building or structure to be used as or in conjunction with the cultural facility;

(C) the cost of site preparation, including the cost of demolishing or removing a building or structure the removal of which is necessary or incident to providing the cultural facility;

(D) the cost of architectural, engineering, legal, and related services; the cost of the preparation of a plan, specification, study, survey, or estimate of cost and revenue; and other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of the cultural facility;

(E) the cost of machinery, equipment, furnishings, and facilities necessary or incident to the equipping of the cultural facility so that it may be placed in operation;

(F) the cost of finance charges, interest, marketing, and start-up of the cultural facility before and during construction and for not more than two years after completion of construction;

(G) costs paid or incurred in connection with the financing of the cultural facility, including out-of-pocket expenses; bond insurance; a letter of credit, standby bond purchase agreement, or liquidity facility; financing, legal, accounting, financial advisory, and appraisal fees; expenses and disbursements; a policy of title insurance; printing, engraving, and reproduction services; and the initial or acceptance fee of a trustee, paying agent, remarketing agent, tender agent, or indexing agent; and

(H) direct and indirect costs of the corporation incurred in connection with providing the cultural facility, including reasonable sums to reimburse the corporation for time spent by its agents or employees in providing and financing the cultural facility.

(5) "Cultural facility" means buildings, improvements, equipment, furnishings, land, or other property available for use by or open to the general public and used for the purpose of exhibition and promotion of an education about the performing, dramatic, visual, and literary arts, natural history, and science and facilities incidental, subordinate, or related to or appropriate in connection with these facilities, located within the state, whether or not constructed or acquired before or after the effective date of this Act.

(6) "Director" means a member of a board.

(7) "Resolution" means a resolution, order, ordinance, or other official action by a governing body of a sponsoring city or county.

(8) "User" means a nonprofit corporation exempt from the state franchise tax under Section 171.063, Tax Code, an organization described in Section 11.18, Tax Code, or an organization described in Section 501(c)(3), Internal Revenue Code of 1954, that will own, use, operate, or develop a cultural facility after the financing, acquisition, or construction of the cultural facility.

(9) "Furnishings" shall include but not be limited to works of art, books, artifacts, scientific instruments, stage sets, musical scores, collections, and other property necessary or useful for the purposes of the cultural facility.

SECTION 4. CREATION OF CORPORATIONS; POWERS; ISSUANCE OF BONDS. A city or county may create a nonmember, nonstock, public, cultural educational facilities finance corporation for the sole purpose of acquiring, constructing, providing, improving, financing, and refinancing cultural facilities for the public purposes stated in this Act. The corporation shall be created and organized in the same manner and has the same powers, authority, and rights with respect to cultural facilities as a health facilities development corporation with respect to health facilities under the Health Facilities Development Act (Article 1528j, Vernon's Texas Civil Statutes), including the power to acquire, purchase, lease, mortgage, and convey property with respect to a cultural facility; borrow money by issuing bonds, notes, and other obligations; lend money for its corporate purposes; invest and reinvest its funds; and secure its bonds, notes, and obligations by mortgaging, pledging, assigning, or otherwise encumbering its property or assets.

SECTION 5. CONSTRUCTION. (a) If this Act conflicts with a provision of another law, this Act prevails.

(b) If a procedure under this Act is held by a court to be unconstitutional, a corporation by resolution may provide an alternate procedure conforming to the constitution. It is the intent of the legislature that a corporation authorized under this Act is a public corporation, constituted authority, and instrumentality authorized to issue bonds on behalf of the city or county on behalf of which the corporation is created, all within the meaning of Section 103, Internal Revenue Code of 1954, and the regulations adopted and rulings issued under that section, and this Act shall be construed accordingly.

SECTION 6. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 2, 1985, by the following vote: Yeas 31, Nays 0; Senate concurred in House amendment on May 21, 1985, by the following vote: Yeas 31, Nays 0; passed the House, with amendment, on May 17, 1985, by the following vote: Yeas 119, Nays 5, two present not voting.

Approved: June 14, 1985

Effective: Immediately